SHUBHAM SINGH RAGHUVANSHI

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CGHC010266962023

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1410 of 2023

The Oriental Insurance Co. Ltd. Through Divisional Manager, Divisional Office, Rama Trade Centre, Opposite Rajeev Plaza, Old Bus Stand, Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh (Insurer Of The Vehicle Bolero No. C.G.-10-X-1358).

... Appellant

versus

1 - Smt. Supet Kunwar W/o - Shri Motilal Bhanu Aged About 50 Years R/o - Village Lalpur, P.S.- Ratanpur, District- Bilaspur, Chhattisgarh

2 - Motilal Bhanu S/o - Late Shri Shuddhu Singh Aged About 55 Years R/o - Village Lalpur, P.S.- Ratanpur, District- Bilaspur, Chhattisgarh..... (Res.Nos.1 & 2 are Claimants)

3 - Jaiman Singh S/o Shri Himmat Singh Paikra R/o Village Kotmikhurd, Police Station- Pendra, Then District- Bilaspur And Now District- Gaurela Pendra Marwahi, Chhattisgarh..... (Driver of the vehicle Bolero No. C.G.-10-X-1358).

4 - Smt. Manki Bai Paikra W/o Shri Bhagwati Singh Paikra R/o - Village- Basti, Thana- Pendra, Then District- Bilaspur And Now District- Gaurela Pendra Marwahi, Chhattisgarh..... (Owner of the vehicle Bolero No. C.G.-10-X-1358).

--- **Respondent(s)**

For Appellant	:	Mr. R.N. Pusty and Mr. Akash Shrivatava, Advocates
For Respondents	:	None

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

(06.10.2026)

1. This is an insurer's appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the award dated 13.04.2023 passed by 5th Additional Motor Accident Claims Tribunal Bilaspur (C.G.) in Claim Case No.391/2020.

2. The gist of the claim before the Claims Tribunal was that on 10.03.2019, the offending vehicle Bolero bearing No. C.G. 10 X 1358, driven by Jaiman Singh, Respondent No. 3 herein, while plying on the Bilaspur-Kewanchi main road, just before village Kargadand-Jogisar turn, was being driven in a rash and negligent manner, as a result of which the driver lost control over the vehicle and it overturned, causing the accident, in which Mahesh Kumar, who was travelling in the said vehicle, sustained grievous injuries and died. In connection with the said incident, First Information Report bearing Crime No. 86/2019 was registered against the driver of Bolero No. C.G. 10 X 1358 at Police Station Gaurela, District Bilaspur (C.G.).

3. The claimants (Respondents No. 1 & 2 herein), who are parents of the deceased, filed a claim application under Section 166 of the Motor Vehicles Act, 1988 before the Tribunal, claiming compensation of Rs. 39,00,000/-. The learned Claims Tribunal, on a close scrutiny of the evidence available on record, did not find any breach of policy conditions and, vide the impugned award, awarded total compensation of Rs. 14,26,952/- with interest @ 9% per annum from the date of application till its realization, in favour of the legal representatives of the deceased (Respondents No. 1 & 2) for their irreparable loss, fastening the liability for payment of compensation upon the

Insurance Company, against which the present appeal has been filed by the Insurance Company.

4. Learned counsel for the appellant/Insurance Company argued that the driver of the offending vehicle, Jaiman, did not possess a valid and effective driving licence at the time of accident and, therefore, charge-sheet Ex. D-2 was filed by P.S. Gaurela against the driver of the offending vehicle Jaiman, Respondent No. 3, and owner Manki Bai, Respondent No. 4, under Section 304-A of IPC along with Section 3 r/w Section 181 and Section 5 r/w Section 180 of the Motor Vehicles Act. It was further argued that under Section 134(c) of the Motor Vehicles Act, it was the duty of the driver / owner to inform the Insurance Company about the accident. The driver and owner of the offending vehicle, after filing written statement, did not contest the case before the Tribunal nor did they adduce any evidence. The burden was upon the owner to state that he was aware that the driver possessed a valid driving licence at the time of accident; only then would the burden shift upon the Insurance Company. The said burden has not been discharged in the present case. It is thus submitted that the Tribunal erred in holding that there was no breach of policy conditions. Since the driver did not possess a valid driving licence, breach of policy ought to have been held to be proved and the Insurance Company deserves to be exonerated from its liability. In support of his arugument he rely upon the judgment of Hon'ble Supreme Court in the matter of **Pappu and others Vs. Vinod Kumar Lamba and another** reported in (**2018) 3 SCC 208.**

5. I have heard learned counsel for the Appellant, considered his rival submissions made herein-above and went through the records with utmost circumspection.

6. In the present case, no evidence was adduced on behalf of the driver and owner of the offending vehicle, whereas the appellant / Insurance Company examined Jitendra Singh (Assistant Manager, Oriental Insurance Company), who proved the insurance policy Ex. D-1 and the police final report Ex. D-2 and deposed that the driver did not possess a valid driving licence at the relevant time.

7. Section 134 of the Motor Vehicles Act reads as under:

> *"134. Duty of driver in case of accident and injury to a person. When any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall-*
>
> > *(a) unless it is not practicable to do so on account of mob fury or any other reason beyond his control, take all reasonable steps to secure medical attention for the injured person, [by conveying him to the nearest medical practitioner or hospital, and it shall be the duty of every registered medical practitioner or the doctor on duty in the hospital immediately to attend to the injured person and render medical aid or treatment without waiting for any procedural formalities], unless the injured person or his guardian, in case he is a minor, desires otherwise;*
> >
> > *(b) give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence, including the circumstances, if any, for*

not taking reasonable steps to secure medical attention as required under clause (a), at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence;

(c) give the following information in writing to the insurer, who has issued the certificates of insurance, about the occurrence of the accident, namely:-

(I) Insurance policy number and period of its validity;

(ii) date, time and place of accident;

(iii) particulars of the persons injured or killed in the accident;

(iv) name of the driver and the particulars of his driving licence."

8. It has also been held by the Hon'ble Apex Court in the matter of **Pappu** (supra) that the Insurance Company is entitled to take a defence that the offending vehicle was driven by an unauthorized person or that the person driving the vehicle did not have a valid driving licence. The onus would shift upon the Insurance Company only after the owner of the offending vehicle pleads and proves the basic facts within his knowledge that the driver of the offending vehicle was authorized by him to drive the vehicle and was having a valid driving licence at the relevant time.

9. In light of the aforesaid statutory provision and case law, if the pleadings, facts and evidence that have come on record in the case at hand are considered, it is clear that no evidence was adduced by the owner of the offending vehicle to discharge the burden which lay upon the driver / owner of

the offending vehicle as per the said legal provisions and case law. As per the driver clause in the policy, it was mandatory for the driver to possess a valid driving licence, but no licence has been produced on record. Even in the final report submitted by the police, the driver and owner have been prosecuted for want of a valid driving licence.

10. This Court is satisfied that in the present case there was absence of driving licence and, therefore, there was breach of policy condition. Hence, it is deemed appropriate to allow the appeal of the Insurance Company and exonerate it from its liability.

11. It is undisputed that the offending vehicle was insured with the appellant / Insurance Company, therefore, in light of the settled legal position laid down by the Hon'ble Supreme Court in the case of **Rama Bai Vs. Amit Minerals through Incharge Officer/ Competent Officer and Another** reported in **2025 SCC OnLine SC 2067,** this Court directs the Insurance Company to satisfy the award at the first instance with liberty to recover the same from the owner and driver of the offending vehicle.

12. In the result, the appeal is **allowed**. The appellant / Insurance Company is exonerated from its liability, however, it shall pay the awarded amount to the claimants at the first instance and shall be at liberty to recover the same from the owner and driver of the offending vehicle.

13. Records of the Tribunal along with a copy of this judgment be sent forthwith for compliance and necessary action, if any.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

-Shubham