CGHC010360252023

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1811 of 2023

Cholamandalam Ms General Insurance Co. Ltd. Ground Floor, Krishna Complex, Dhimrapur Road, Raigarh, C.G., Present Address- 2nd Floor, Simran Tower, In-Front Of L.I.C. Office, Pandari, Raipur, C.G. (Insurer of Vehicle Tractor No. C.G. 14 M N 0686) **... Appellant**

versus

1 - Mansit Unrao S/o Biro Ram Unrao Aged About 52 Years R/o Village Purnannagar, Tahsil And District- Jashpur, C.G. (Claimant).

2 - Sunil Kumar Lakda S/o Gustap Lakda Aged About 35 Years R/o - Village and Post Kandaibahar, Tahsil Farsabahar, Dist. Jashpur, C.G. (Owner of Vehicle Tractor No. C.G. 14 M N 0686).

3 - Bhuneshwar Ram S/o Siru Ram Aged About 25 Years R/o Village Purnannagar, Tahsil And Dist. Jashpur, C.G. (Driver of Vehicle Tractor No. C.G. 14 M N 0686) **... Respondents**

For the appellant	**:**	Mr. Harshmander Rastogi, Advocate
For Respondents	**:**	None

(Hon'ble Shri Justice Sanjay Kumar Jaiswal)

Order on Board

04/11/2026

1. This appeal under Section 173 of Motor Vehicles Act, 1988 (for short "MV Act") has been filed by Insurer challenging the condition of pay and recovery stipulated in the award dated 12.05.2023 passed by the learned Motor Accident Claims Tribunal, Jashpur, District Jashpur Chhattisgarh in

Claim Case No. 52/2022.

2. The pleadings made in claim application filed under Section 166 of the MV Act are that deceased Manish Kumar Bhagat along with other laborers after loading the cement in the Tractor No.C.G.14-MN-0686 were going to Manora with loaded cement bags by travelling in Trolley attached to the Tractor. On the way, the offending Tractor turned turtle due to rash and neligent driving of respondent no.1 and deceased died on the spot.

3. Learned counsel for the appellant/Insurance Company submits that the deceased along with two others was travelling in the offending tractor-trolley as a gratuitous passenger and since the trolley was not insured, the risk was not covered, therefore, there was breach of policy conditions and thus the insurance company is not liable to pay compensation. However, the Tribunal has wrongly passed the pay and recovery order which cannot be allowed to sustain.

4. The learned Tribunal observed that the Tractor was carrying a driver and two laborers. On the date of accident, a trolley loaded with cement bags was attached to the tractor. Tractor was insured and the trolley was not insured which was being used commercially. Thus, considering the evidence and applying the law laid down by the Courts the Tribunal held that the occupants of the offending vehicle is falling within the scope of third party.

5. The Tribunal has also observed that the driver had a driving license at the time of the accident. In absence of the original driving licence document, it is not reflected that it was effective. However, considering the fact that Tractor was insured with the appellant on the date of incident, 09.06.2022 and since the driver of the Tractor did not produce the driving licence, the Tribunal exonerated the insurance Company from its liability directing the insurer to follow the pay and recovery principle.

6. Considering the law laid down by the Hon'ble Supreme Court in case of ***Sunita and others Vs. United India Insurance Co. Ltd., and others*** *reported in 2025 SCC OnLine SC 1464* as also ***Rama Bai Versus Amit Minerals through Incharge Officer/Competent Officer*** *2025 SCC OnLine SC 2067* and taking note of the facts and circumstances of the present case, particularly the fact that at the time of accident the Tractor was insured with Insurance Company, I do not find any infirmity in the impugned award passed by the tribunal directing the appellant to follow the principle of pay and recovery.

In the result, the appeal has no merit and is **dismissed**.

Sd/-

Sanjay Kumar Jaiswal
Judge

Rao

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