CGHC010381962023 2026:CGHC:43741

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1993 of 2023

The Oriental Insurance Company Limted By Branch Manager Chawla Complex Devendra Nagar Road Raipur, District Raipur (C.G.) Through Authorized Signatory Manager, Legal Hub, The Oriental Insurance Company Limited, Old Bus Stand, Bilaspur (C.G.) (N.A. No.03)

... Appellant

versus

1 - Indrapal Dhruv S/o Late Khattu Lal Dhruv Aged About 50 Years R/o Imli Chowk Ward No.12 Rawabhata, P.S. Khamtarai, District Raipur (C.G.) (Claimant)

2 - Smt. Vimla Dhruv W/o Indrapal Khairawar Aged About 43 Years R/o Imli Chowk Ward No.12 Rawabhata, P.S. Khamtarai, District Raipur (C.G.) (Claimant)

3 - Sagar Yadav S/o Shri Suresh Yadav Aged About 19 Years R/o Saakin-Rawabhata, Neem Chowk P.S. Khamtarai, District Raipur (C.G.) (Driver)

4 - Suresh Yadav S/o Shri Motilal Yadav Aged About 52 Years R/o Saakin-Rawabhata, Neem Chowk P.S. Khamtarai, District Raipur (C.G.) (Owner)

--- **Respondent(s)**

For Appellant	:	Mr. Abhishek Mishra, Advocate
For Respondents No.1 & 2	:	Mr. A.L. Singroul, Advocate
For Respondents No.3 & 4	:	None

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

(08.10.2026)

1. This is an insurer's appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the award dated 18.07.2023 passed by 7th Additional Motor Accident Claims Tribunal Raipur (C.G.) in Claim Case No.87/2022.

2. The gist of the claim before the Claims Tribunal was that on the date of accident i.e. 17.10.2020, the deceased Meghraj alias Karan Dhruv was sitting pillion on motorcycle bearing No. CG-04 MQ-6542 and was going from Birgaon towards Urla. The said motorcycle was being driven by Sagar Yadav. At about 08:00 p.m., near Mahakaleshwar Temple, Birgaon, Respondent No.3 Sagar Yadav, driver of motorcycle No. CG-04 MQ-6542, drove the said vehicle in a rash and negligent manner at high speed and dashed against a tractor parked on the roadside. As a result, Meghraj alias Karan Dhruv sustained grievous injuries on his head and other parts of the body and died on the way while being taken to the Hospital for treatment. The said accident was reported to Police Station Urla, on the basis of which Crime No. 338/2020 under Section 304(A) of the IPC was registered at Police Station Urla.

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. 25,50,000/-. 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. 13,30,600/- 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, Sagar Yadav, did not possess a valid and effective driving licence at the time of accident and, therefore, charge-sheet Ex. P-1 was filed by P.S. Urla against the driver of the offending vehicle Sagar, Respondent No. 3, and owner Suresh, 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 did not file any written statement, nor did they 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 argument 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. Learned Counsel appearing for Respondents No.1 & 2 supported the impugned award. He submits that an order of pay and recover may be passed.

6. I have heard learned counsel appearing for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

7. In the present case, no evidence was adduced on behalf of the driver and owner (Respondents No.3 & 4) of the offending vehicle, whereas the appellant / Insurance Company examined Abhishek Verma (Assistant Manager, Oriental Insurance Company), who proved the insurance policy Ex. D-1 and the police final report Ex. P-1 and deposed that the driver did not possess a valid driving licence at the relevant time.

8. 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) .....*
>
> *(b) .....*
>
> *(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.****"*

9. 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.

10. 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, nor was any written statement filed 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 as per the seizure memo (Ex. P-6), no licence has been seized / 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.

11. 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.

12. 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.

13. 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.

14. 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