* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on : 12th October 2026.
Pronounced on: 19th November 2026
Uploaded on : 20th November 2026

\# **CNR No. DLHC010593062023**

\+ MAC.APP. 49/2024

ICICI LOMBARD GENERAL INSURANCE CO.LTD.
.....Appellant

Through: Ms. Suman Bagga, Ms. Mouli Sharma, Advs. Mr. Gautam Jha, Advocates

versus

SMT. HARJEET KAUR & ORS. .....Respondents

Through: Mr. Dhananjay Gupta, Mr. Gurjeet Singh, Mr. Narendra Mohan Rajesh, Advs. for Respondent No.1

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

%

ANISH DAYAL, J.

1. This appeal has been filed by the Insurance Company assailing award dated 31st July 2023 passed the Motor Accident Claims Tribunal, Central District, Tis Hazari Courts, Delhi ['***MACT/Tribunal***'] awarding compensation of *Rs.27,13,262/-* along with interest at the rate of *9%* per annum.

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The Accident

2. The accident occurred on 25th September 2014 at about 02:15 a.m. when *Tarandeep Singh* (hereinafter, '***deceased***') was driving an *Accent* car on the mall road towards *Gurudwara Sisganj Sahib, Chandni Chowk* when his car collided with the rear of a JCB bearing No. HR 74 2045 ('***offending vehicle***') which had been stationary on the road.

3. The offending vehicle was alleged to have been wrongfully and improperly parked in the middle of the road without blinkers, parking indicators or reflectors at an unlit spot. Deceased was taken to the Trauma Centre for initial treatment and then to the hospital where he remained under treatment till his death 30th September 2014. FIR 425/2014 was registered in this respect.

Submissions on behalf of parties

4. *Ms. Suman Bagga*, counsel for Insurance Company, argues that the offending vehicle was not covered by the Insurance Policy under the Motor Vehicles Act, 1988 ('***MV Act***') but had been merely taken as, "*Contractors Plant & Machinery Policy*" (hereinafter, '***CPM Policy***') that covered the risk of any damage or injury or death caused at the site where the offending vehicle was deployed.

5. *Ms. Bagga*, contented that the machine was used as an equipment and therefore, had been insured against risks of use of that equipment and not as a *motor vehicle*. She submitted that the MACT had failed to appreciate the nature, scope and contractual limitations of the CPM Policy.

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6. *Ms. Bagga*, drew attention of this Court to the relevant aspects of the CPM policy. The policy was valid from 05th October 2013 till 04th October 2014 in favour of the owner/*Gemini Equipment and Rentals Private Limited*. Indemnification of the insured/owner was against unforeseen and sudden physical damage by any cause (not excluded) to the insured whilst "*at the location mentioned*". One of the exclusions to the CPM policy was contained in *Clause (h)* which stated, "*loss or damage whilst in transit, from one location to another location (public liability will not be payable while Contractors Plant and Machinery are on public roads).*"

7. *Mr. Dhananjay Gupta*, counsel for claimant, on the other hand, drew attention of the Court to the endorsement, '*CPM 3: Third Party Liability (TPL)'*, which stated that in consideration of an additional premium of *Rs. 80/-*, the Insurance Company would indemnify the insured/owner against legal liability for accidental loss or damage caused to the property of other persons and, "*against legal liability for fatal or non-fatal injury to any persons other than the insured or his own employees or employees of the other firms/connected with the work or members of the family of the insured*".

8. While, *Ms. Bagga* contended that as per this, third-party liability was restricted to the operation of the offending vehicle on site and not for being driven as a *motor vehicle* on the road, *Mr. Gupta* countered it by stating that there was a specific assumption of coverage of risk by the Insurance Company with respect to third-party liability.

9. *Ms. Bagga*, relied on Section 147 of MV Act, stating that it covers only motor vehicles which have been defined under Section 2 (28) of

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MV Act and did not cover the offending vehicle which was essentially a machine/equipment. She contended that the CPM Policy does not provide statutory third-party insurance as mandated under the MV Act and no premium towards third-party had been charged or paid. Liability towards third-party referred above was merely contractual in nature and was restricted both in scope and quantum, with the liability capped at *Rs.2,65,168/-* and therefore cannot be expanded to include the compensation payable to the claimant.

10. *Ms. Bagga*, placed reliance on the decisions of Supreme Court in ***United India Insurance Co. Ltd v. Harchand Rai Chandanlal*** (2004) 8 SCC 644 and ***General Assurance Society Ltd. v. Chandmull Jain & Anr.*** AIR 1966 SC 1644 and the decisions of High Court of Karnataka in ***Ranganath C. v. Sany Heavy Industries*** 2023:KHC:24666 and ***Iffco Tokio General Insurance v. Taslim Banu***, 2021:KHC-K:6430-DB.

11. She highlighted that the exclusions under Third-Party Liability (TPL) Extension Clause also included an exclusion in *Clause c(iii)* which stated that "*any accident caused by vehicles licensed for general road or by waterborne vessels or used aircraft*".

12. *Per contra, Mr. Dhananjay Gupta*, stated that a crane or a JCB machine fell within the definition of a Motor Vehicle under Section 2(28) of MV Act and cannot fall within the exception of a special type of vehicle adapted solely for use in a factory. In his support, he relies on the decision of this Court in ***United India Insurance Company Limited v. Jagat and Others*** 2024:DHC:2974, which held that vehicles such as, cranes used on public roads are covered under the definition of a motor vehicle in the MV Act.

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13. *Mr. Gupta* also placed reliance on the decision of a Coordinate Bench of this Court in ***National Insurance Company Limited v. Ram Bai & Ors.***, 2019:DHC:5589.

14. Aside from this, *Ms. Bagga* raised the issue of contributory negligence to be fastened on the deceased. *Ms. Bagga* contended that the finding that the offending vehicle had been negligently parked in the middle of the road, without indicators, was contrary to the site plan, which shows that it was stationary, on the side of the road.

15. *Mr. Gupta*, however, contended that the vehicle was parked without blinkers and parking indicators and on noticing the same, the driver tried to avoid the accident, however, he struck against the rear right portion of the offending vehicle. He relies on the decision in ***Lakshmi Devi and others v. Mehboob Ali*** SLP (C) No. 30423/2019 decided on 25th August 2023, where the accident had occurred with a stationary vehicle parked in the middle of the road. The Supreme Court held that there was no contributory negligence of deceased, when there was no visibility of the truck and the deceased was only able to notice the vehicle when he approached it. Therefore, in such circumstance, entire negligence was fastened on the driver of offending vehicle.

16. *Ms. Suman Bagga* stated that without prejudice to the above, in case the liability is imposed upon driver of the offending vehicle, Insurance Company should be entitled to recovery rights, since there was a clear breach of the conditions of insurance policy and an absence of statutory coverage.

17. Further on the issue of quantum of compensation, she contended that future prospects at 50% were wrongly granted, which is against the

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principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680.

Analysis

18. The accident occurred on 25th September 2014 at about 02:15 a.m. when the deceased was driving his *Accent* car proceeding on Mall Road highway near Khyber Pass Petro Pump and crashed into the offending vehicle, which was parked stationary in the middle of the road allegedly without blinkers and parking indicators. *Tarandeep Singh* (deceased) suffered multiple grievous injuries and his car was also hugely damaged. He was rushed to Trauma Centre, then later to Vinayak Hospital, Model Town and then to Fortis Hospital, Shalimar Bagh, where he remained under treatment until his passing away on 30th September 2014. The deceased was aged about 22 years and was running his own shop of raw veg and non-veg snacks.

19. The driver and owner filed a joint written statement blaming the deceased for negligence and for not driving safely. Written statement filed by Insurance Company also corroborated the same, stating that the offending vehicle was not insured under the MV Act, but under CPM policy and no third-party premium under the MV Act was charged. Only limited liability to the extent of *Rs.2,65,160/-* was covered, which did not apply in the present case, since the said JCB/offending vehicle was on a public road and not on site.

20. There were no eyewitnesses to the accident. Mother of deceased deposed as *PW1* and stated that the offending vehicle was parked in the middle of the road without any blinkers or indicator lights, due to which the deceased dashed into the offending vehicle.

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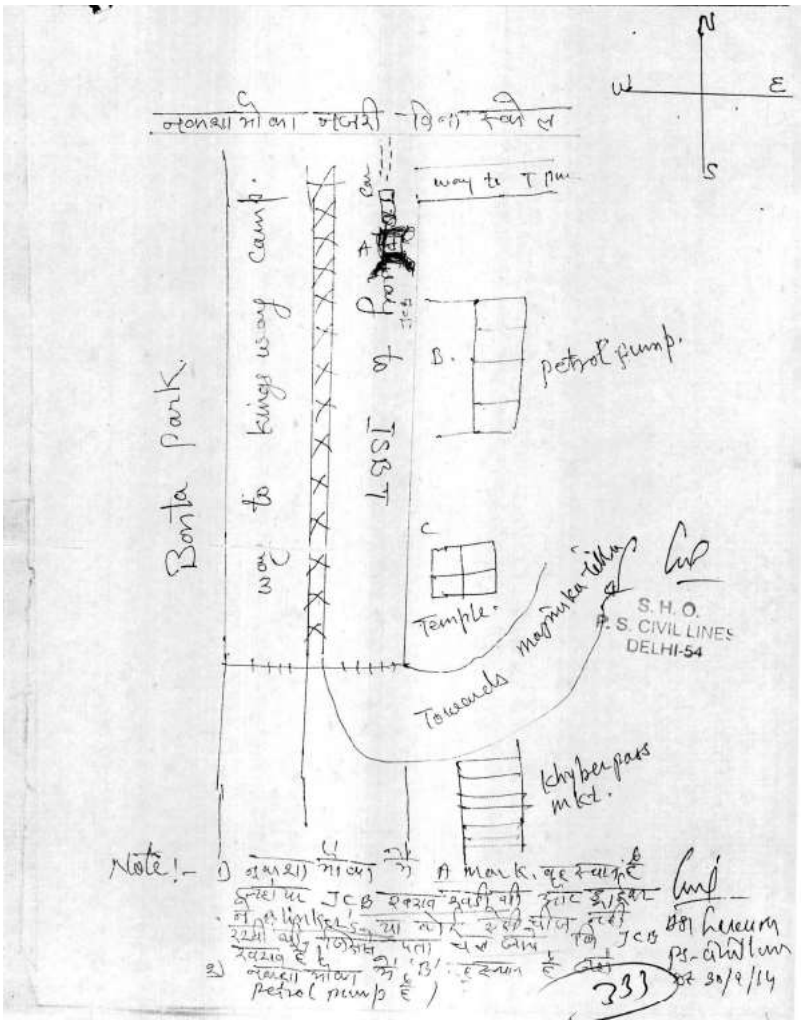
21. MACT noted that the oral testimony of *PW1* remained unrebutted and unchallenged by the driver & owner, as they did not cross-examine *PW1*. No material had been placed on record by the Insurance Company to reject the oral testimony of *PW1*. Since the driver was charge-sheeted and he did not step into the witness box, this was considered to be a persuasive circumstance and an adverse inference was drawn.

22. It was noted that the deceased was travelling on the right carriageway and the offending vehicle had been improperly parked on the side. The driver did not make any statement as to circumstances under which the offending vehicle had been wrongly and improperly parked and, there was no evidence of any mechanical defect in the offending vehicle or any proof of omission on the part of deceased.

23. The detailed accident report ('***DAR***') noted the position of offending vehicle as, "*JCB was standing near Mall Road Petrol Pump*" and the lane in which accident took place was a *two-way lane*. It recorded at *Serial No.16(x)* [*whether there were any traffic lights near the place of accident and, if they were functional*] a *'No*' to the said question.

24. As per the DAR, the road was divided by a painted median and the condition of the light was '*dark (street lights on, continuous)*'. DAR was filed by ASI *Lekhraj* who deposed as *PW2* and the site plan was exhibited as *Ex. PW2/2*. As per the site plan, extracted below, the collision happened at *point 'A'* which was in the middle of the road and it was noted that blinkers or similar indicators were "*not on*" to assess whether the JCB/offending vehicle was non-functional or stationary. The petrol pump was located slightly further away on the left side.

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25. The insurance policy describes the JCB/offending vehicle as '*JCB 432ZX Wheel* Loader' with an engine and chassis number. The insurance policy, which is a CPM policy, covers the JCB/offending vehicle as an *equipment*, along with an endorsement for third-party liability as CPM-3 restricted at 10% of the sum insured *Rs.26,51,683/- i.e. Rs.2,65,168/-*. The insurance policy itself mentioned that the insured property was covered "*at the location*" and would cover the equipment whenever it was at work or at rest, being dismantled for the purpose of cleaning or overhauling or in the course of operations, or when it is being shifted within the premises.

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26. Loss or damage whilst in transit from one location to another was excluded with the specific statement that, "*public liability will not be payable when contractors' plant and machinery's are on public roads*". The clause for third-party liability as part of CPM-3 endorsement covered legal liability for accidental loss or damage caused to the property of other persons, and for fatal or non-fatal injury to any persons other than the insured or his own employees or employees of the owner of the works/site or employees of other firms/connected with the work site or members of the family of the insured.

27. *Ms. Bagga* submitted was that the insurance policy in itself did not cover JCB/offending vehicle as a motor vehicle and specifically excluded its liability when it was on the road. The clause for third-party liability under CPM-3 was merely related to damage to any third party while the JCB/offending vehicle is present on the location.

28. In this regard, it would be instructive to see how a wheel loader is categorized under the MV Act and Central Motor Vehicles Rules, 1989 ('***CMV Rules***'). *Rule 2 (cab)* [*renumbered from Rule 2(ca) pursuant to G.S.R. 212(E) w.e.f from 1st April 2015*] of the CMV Rules which defines a construction equipment vehicle, includes a loader as part of the definition. Notably, the said definition includes a number of other similar equipments and qualifies it with the phrase '*but modified and manufactured'* with *"on or off*" or "*on and off*" highway capabilities. The explanation itself states that such a vehicle shall be a non-transport vehicle and driving on the road of such a vehicle will be incidental to the main off-highway function and for a short duration not exceeding 50 kmph. The said Rule is extracted as under:

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> *"2. Definitions.— In these rules, unless the context otherwise requires—*
> *(cab) "construction equipment vehicle" means rubber tyred (including pneumatic tyred), rubber padded or steel drum wheel mounted, self-propelled, excavator, loader, backhoe, compactor roller, dumper, motor grader, mobile crane, dozer, fork lift truck, self-loading concrete mixer or any other construction equipment vehicle or combination thereof designed for off-highway operations in mining, industrial undertaking, irrigation and general construction but modified and manufactured with "on or off" or "on and off" highway capabilities.*
> *Explanation.—A construction equipment vehicle shall be a non-transport vehicle the driving on the road of which is incidental to the main off-highway function and for a short duration at a speed not exceeding 50 kms per hour, but such vehicle does not include other purely off highway construction equipment vehicle designed and adopted for use in any enclosed premises, factory or mine other than road network, not equipped to travel on public roads on their own power."*
>
> (emphasis added)

29. Given the above specifications, it is imperative to consider the nature of JCB/offending vehicle, and for this purpose an image of said JCB/offending vehicle as taken from the official JCB site [https://www.jcb.com/en-ZA/products/machines/wheel-loaders/432zx/] is extracted below for reference:



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30. Certain other relevant provisions which pertain to a construction equipment vehicle as per the CMV Rules are *inter alia*, *Rule 104A, 105, 107A, 109, 126B*.

31. Of these, *Rule 109* of the CMV Rules is relevant to this case and reads as under:

> *"109. Parking light— Every construction equipment vehicle, combine harvester and motor vehicle and every motor vehicle other than motor cycles and three wheeled invalid carriages shall be provided with one white or amber parking light on each side in the front. In addition to the front lights, two red parking lights one on each side in the rear shall be provided. The front and rear parking lights shall remain lit even when the vehicle is kept stationary on the road:*
> *Provided that these rear lamps can be the same as the rear lamps referred to in rule 105, sub-rule (2)*
> *Provided also that construction equipment vehicles and combine harvesters, which are installed with flood light lamps or spot lights at the front, rear or side of the vehicle for their off-highway or construction operations, shall have separate control for such lamps or lights and these shall be permanently switched off when the vehicle is travelling on the road."*
>
> (emphasis added)

32. *Rule 109* clearly states that every construction equipment vehicle shall be provided with one white or amber parking light on each side in the front and two red parking lights on each side in the rear. Both the front and rear parking lights '*shall remain lit*' even when the vehicle is kept stationary on the road. Whether this mandate was complied with by driver of the offending vehicle, is an issue which can be potentially disputed. However, considering that between the driver and the deceased, only the driver of offending vehicle is available as a possible

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eyewitness, who chose not to appear and give his testimony before the MACT, adverse inference therefore, is to be drawn that the JCB/offending vehicle was standing in the middle of the road (as evident from the site plan) without any parking lights or indicator lights at 02:15 a.m. Even if the street lights were on, there is no way of knowing as to what would be the visibility of the vehicle at that time, which is quite large in its dimensions and potentially could not be visible in the middle of the road in the middle of the night.

33. Therefore, the aspect of contributory negligence, as pleaded by the Insurance Company, cannot be accepted. In order to prove contributory negligence, there has to be evidence in support provided by the party seeking to stake claim on the same. This has been clearly held by the Supreme Court in ***Yashwant Krishna Kumbar v. Divisional Manager***, ***United India Insurance Co. Ltd.*** SLP (C) NO. 22599/2024 by order dated 25th November 2025, where the Supreme Court was adjudicating an appeal filed by the pillion rider on the ground that contributory negligence of *50%* was attributed by the Tribunal and High Court. Allowing the pillion rider's appeal, the Supreme Court held as under:

> *"16. In cases where contributory negligence is sought to be attributed to a pillion rider in a motor vehicle accident, the burden squarely lies on the party alleging such negligence to establish, by cogent material, that any act or omission on the part of the pillion rider contributed to the occurrence of the accident. In the absence of such proof, no finding of contributory negligence can be sustained against a pillion rider.*
> *17. This Court is therefore of the considered view that the Tribunal committed a manifest error in reducing the compensation by 50% on the ground of alleged contributory negligence of the claimant. The insurer,*

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> *on whom the burden squarely rested, led no evidence to establish even remote negligence attributable to the claimant. Consequently, the finding of contributory negligence cannot be sustained and is liable to be set aside, restoring the claimant's entitlement to the full measure of compensation determined in accordance with law."*
>
> (emphasis added)

34. The primary issue then arises, whether the owner would be liable since the offending vehicle was not insured as a motor vehicle to ply on the roads or would the insurance policy, as it existed, cover its use on the roads. It is quite evident from the CPM Policy, that the insured owner did not wish to get the vehicle covered for its use of the roads, as clearly borne out of the particular exclusion clause. Whether third-party liability endorsement, relied upon by *Mr. Gupta*, can provide unlimited liability under the MV Act in favour of the claimant is to be considered. In the opinion of this Court, *prima facie* it does not seem so.

35. However, it will be instructive to note various judgments which have rendered decisions in similar circumstances.

(i) In ***Tara Chanda v. Oriental Insurance Company Ltd.***, 2016 SCC OnLine KAR 8413, the vehicle in dispute was a *mobile crane*, classified as a construction equipment vehicle, registered as a motor vehicle under the MV Act, read with CMV Rules. Since the Insurance Company had issued a CPM policy, MACT had absolved the insurer from paying compensation. In appeal, the claimants submitted that the *crane* was attached to the motor vehicle, thereby, conforming to the definition of heavy goods vehicle under Section 2(16) of MV Act. While the CPM policy covered the risk of 64

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cranes, located at the site, *clause (h)* being an exclusion clause provided for loss of damage while in transit, from one location to another, but did not cover public liability on public roads. The policy also included a third-party liability endorsement for accident on site. Therefore, the MACT held that the CPM policy covered risk and damage at the site of work and not third-party risk arising out of an accident on a public road.

While, the Insurance Company contended that the *crane* was not a motor vehicle, however, this submission was rejected by the High Court noting *Rule 2(ca)* of CMV Rules [*subsequently renumbered as Rule 2(cab)*], defining construction equipment vehicle. Reference was made to *General Regulations of the All-India Tariff on Contractors Plant and Machinery Insurance* (hereinafter, '***Tariff Regulations***') [*since denotified by IRDAI vide Notification dated March 20, 2024*] and specifically Regulation 3 which is extracted as under for ease of reference:

> "***3. SCOPE***
> *The cover shall be as per the standard policy form in respect of Contractor's Plant & Machinery Insurance.*
> *The Insurance of all types of Contractor's Plant Machinery and Equipments (including those governed by the Motor Vehicles Act or rateable under Motor Tariff) engaged for work at any specified location in India, shall be subject to these General Regulations.*
> *In respect of Machinery/equipments, whether registered with RTO or not, but engaged at the Project site, the Insured, has an option either to select the Motor/Non-Motor Policy under Motor Tariff or CPM Policy in the Engineering Department.*
> *In case of doubt as to the applicability of Rate Schedule and these General Regulations, the matter*

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should be referred to the Tariff Advisory Committee through Head Office of the Insurers."

(emphasis added)

The Court noted that the insured had an option to select either Motor/Non-Motor Policy under the Motor Tariff or the CPM policy. Therefore, it was held that since the crane was attached to the heavy goods vehicle, it was both a construction equipment vehicle, as well as, a heavy goods vehicle for the purpose of MV Act and held that the insurer was bound to satisfy the claims for compensation.

(ii) ***IFFCO Tokio General Insurance v. Taslim Banu*** 2021:KHC-K:6430-DB, a decision delivered by the Division Bench of Karnataka High Court was a case where the accident occurred when the deceased was crushed between a *tipper* used for transporting mud from inside of a filter bed water board and a *Hitachi machine* which was parked near it. Insurance company contended that the *Hitachi Machine* was not a motor vehicle and was insured under the CPM policy, whereby, third party liability was restricted to 10%. Claimant on the other hand placed reliance on *Rule 2 (cab)* of CMV Rules to state that an excavator was covered under the definition of a motor vehicle. Reliance was also placed on the decision of Supreme Court in ***Bose Abraham v. State of Kerala***, AIR 2001 SC 835, where it was held that *road rollers* are motor vehicles for the purpose of MV Act. Relevant paragraph of the decision in ***Bose Abraham*** (*supra*) is extracted as under:

"*We hold that the excavators and road rollers are motor vehicles for the purpose of the Motor*

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> *Vehicles Act and they are registered under that Act. The High Court has noticed the admission of the appellants that the excavators and road rollers are suitable for use on roads. However, the contention put forth now is that they are intended for use in the enclosed premises. Merely because a motor vehicle is put to a specific use such as being confined to an enclosed premises, will not render the same to be a different kind of vehicle. Hence, in our view, the High Court has correctly decided the matter and the impugned order does not call for any interference by us. However, the question whether any motor vehicle has entered into a local area to attract tax under the Entry Tax Act or any concession given under the local Sales Tax Act will have to be dealt with in the course of assessment arising under the Entry Tax Act.*"
>
> (emphasis added)

The Karnataka High Court noted that explanation to *Rule 2 (cab)* of CMV Rules, makes it clear that a construction equipment vehicle shall be a non-transport vehicle and driving on the road, which is incidental to the main off-highway function, would be for a short duration. Therefore, the Court held that the machinery was covered under the definition of construction equipment vehicle under *Rule 2 (cab)* of CMV Rules. As per their limited liability, the Insurance Company was held liable to pay 10% of the sum insured, however, recovery rights were granted in view of the decision in ***National Insurance Company Ltd. v. Swaran Singh*** AIR 2004 SC 1531.

(iii) In ***Ranganath C. v. M/s. Sany Heavy Industry India Pvt. Ltd.*** 2023:KHC:24666, the insurance policy in question was a CPM policy issued for a *Motor Taradar (JCB)* which was registered as a

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category of *Motor Taradar*. It was noted that the insurance policy had been issued for machineries/equipments after a contract of insurance was executed with the owner. The Karnataka High Court also noted the exclusion under *clause (h)* limiting public liability. It was held that the third-party liability endorsement was only with respect to third party damage caused at the location mentioned in the insurance policy and not while it is in transit from one location to another. The decision in ***Tara Chanda*** (*supra*) was distinguished, since the offending vehicle in that case was a mobile crane attached to a heavy goods vehicle and it was considered to be both a construction equipment vehicle and a heavy goods vehicle. However, there was no evidence in this case whether the *motor taradar* was a heavy goods vehicle. Since premium had not been paid for covering risk for third-party when the machinery was in transit, the liability was fastened on the owner.

(iv) The Karnataka High Court in ***Munilakshmma v. ICICI Lombard General Insurance Co. Ltd.*** 2023:KHC:24741 was dealing with the CPM Policy issued in respect of a *lorry*. Extra premium had been paid towards covering third party risk and liability had been fastened on the Insurance Company by MACT. Challenging this finding, the Insurance Company relied upon the CPM policy, which had not been issued under the MV Act, but was a pure contractual policy. The Karnataka High Court held that a contractual policy is different from a statutory policy and even though the concrete mixer is fitted with the lorry and is movable from place to place, the owner was supposed to purchase an

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insurance policy under the provisions of MV Act to cover risk towards third party as per Section 147 of MV Act. The exclusion provided in *clause (h)* of the CPM policy was noted and the owner was stated to be bound by these terms and conditions. Insurance Company's appeal was allowed and the liability was then fixed on the owner.

(v) In ***Manjunatha v. Sri Ravi & Ors.*** MFA 12091/2011 a decision delivered on 13th April 2024, the Division Bench of Karnataka High Court was dealing with an accident where a *JCB* had dashed into the claimant while he was carrying out work on the road. A claim petition was subsequently filed for injuries sustained. Insurance Company contended that the vehicle in question was a JCB/Excavator/Construction Equipment and therefore, is not covered under within the definition of light motor vehicle ('***LMV***') under *Section 2 (21)* of MV Act. Additionally, it was contended that the driver was not carrying a valid driving license since no separate endorsement was issued. Aside from the issue of license, the issue before the Court was whether such a vehicle is a transport vehicle or not.

Relying on *Section 2 (47)* of MV Act which defines a transport vehicle, the Court concluded that the vehicle in question was not covered within the definition. Further, relying on the explanation for *Rule 2 (ca)* of CMV Rules [*subsequently renumbered as Rule 2(cab)*] the Court concluded that the construction equipment is a non-transport vehicle and the class or category of the vehicle must be understood first. It was therefore held that the *JCB* does not

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come within the definition of *Section 2 (21)* of MV Act, but is '*a motor vehicle of special description*'. On the issue of liability, it was held that the driver was not competent to drive the said vehicle, merely because he held an LMV license, therefore, the Insurance Company was held to satisfy the amount in favour of the claimant, with liberty to recover from the owner. This case pertinently does not throw any light on the nature of the insurance policy, which was issued by the Insurance Company. *SLP (C) Diary No. 51336/2025* was preferred against this order, however, the said petition is still pending before the Supreme Court.

(vi) ***United India Insurance Co Ltd v. Jagat & Ors.*** 2024:DHC:2974, delivered on 15th April 2024 by a predecessor Bench of this Court was a review petition filed by the registered owner challenging rights of recovery granted against them by judgment dated 28th July 2017. The Insurance Company had issued a CPM policy for a crane which was stationed for loading and unloading of empty containers at the CCI Empty Yard, Tughlakabad, Delhi. Upholding the Tribunal's finding that the *crane* was a motor vehicle within the definition of MV Act, this Court upheld the recovery rights granted to the Insurance Company on account of fake driving license of the driver of crane. While the review petition was preferred by the owner and only limited to the extent of grant of recovery rights against them, in the decision delivered on 15th April 2024, this Court did not interfere with the previous finding on the nature of insurance policy, as well as, the grant of recovery rights.

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36. It would also be instructive to assess the judgment of Division Bench of Himachal Pradesh at Shimla in ***M/s. Italian-Thai Development Public Company Limited v. State of HP*** 2016 SCC OnLine HP 2768 where the question before the Court was whether construction equipment vehicles such as, *water tankers, heavy hyva, farm tractors, transit mixtures* and other heavy machines do not fall within the scope and purview of the definition of motor vehicles and are thus exempted from tax. Relying upon *Rule 2(ca)* of CMV Rules [*subsequently renumbered as Rule 2(cab)*], it was stated that these construction equipment vehicles have been termed as 'non-transport vehicles' which has been further defined under *Rule 2(h)* of CMV Rules. Basis *Rule 2(h),* the High Court noted that nonetheless they will be motor vehicles within the definition of *Section 2(28)* of MV Act. Even if driving on the road is incidental and less than 50 kmph, only those vehicles which are purely off-highway construction and not equipped to travel on public roads on their own were not included in the definition. The Court relied upon various judgments on the aspect of applicability of tax on such vehicles, including ***Bose Abraham*** (*supra*) and held that construction equipment vehicles fall within the definition of '*motor vehicles*' and could not claim any exemption against imposition of tax. Once these vehicles have been registered as motor vehicles, there cannot be any reason to state that they do not fall within the definition of '*motor vehicle*', only because they are adopted for use in enclosed premises.

37. This Court has perused the judgments relied upon by *Ms. Bagga*, counsel for Insurance Company. The question before the Supreme Court in ***Harchand Rai*** (*supra*) was regarding definition of the term 'burglary'

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in the insurance policy and also whether theft should have been preceded with force or violence as per the terms of insurance policy. Employing a strict interpretation of the insurance policy, the Court held that no outside interpretation can be employed while interpreting the terms of a contract, unless the meaning is ambiguous. The discussion by the Supreme Court in ***Chandmull Jain*** (*supra*) also does not particularly deal with the issue of a CPM Policy but reinforces the assertion made by the Insurance Company that interpretation of a contract of insurance must be strictly restricted to the terms agreed upon between the parties, without making a new contract.

38. On the basis of the abovementioned documents and statutory provisions, the Court is of the opinion that the offending vehicle, *i.e.* a *JCB wheel loader* falls within the definition of a construction equipment vehicle as per the explanation to *Rule 2 (cab)* of CMV Rules, but nevertheless falls within the purview of a non-transport vehicle, being a motor vehicle, as per *Rule 2 (h).* It would therefore, be covered under the definition of '*motor vehicle*' under *Section 2 (28)* of MV Act, since such a vehicle has the ability to move, has a chassis and is mechanically propelled and adapted for use upon roads.

39. The next issue then before the Court is whether the insurance policy did cover such third-party liability resulting from use of this motor vehicle on the road.

40. At the outset, the CPM policy has not been issued within the purview of Section 147 of MV Act. The Insurance Policy, being a Contractors Plant & Machinery Policy (*CPM*), essentially covers indemnification to any insured property '*whilst at the location*.' The

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exception provided under *clause (h)* was clear and categorical, stating that the Insurance Company will not be liable for loss or damage whilst in transit *i.e.* public liability will not be covered while the insured vehicle is on public road.

41. Additionally, to cover third party liability, provided under CPM-3, the Endorsement covered legal liability for fatal or non-fatal injury to any persons other than the insured or his own employees. An exclusion is further provided under this Endorsement stating that the Insurance Company will not indemnify the insured, if an accident is caused by the vehicle licensed for general road.

42. In any event, upon a holistic reading, the Court is of the opinion that the Endorsement under CPM-3 does not cover third party liability while the insured vehicle was being deployed on the road.

43. The owner clearly chose not to take statutory cover mandated under Section 146 of MV Act and would be liable in accordance with law. Therefore, since the offending vehicle was uninsured for the purposes of movement on roads and the accident occurred while it was parked on the road, liability would be fastened upon the owner of the vehicle.

44. By order dated 19th January 2024, the Court had issued notice to the owner, along with directing deposit of the entire awarded amount along with accrued interest and release of Rs. 7,00,000/- to the claimant. Thereafter, the owner did not enter appearance before this Court.

45. Accordingly, in the opinion of this Court, the appeal filed by Insurance Company would have to be allowed, considering that there was no valid Insurance Policy as provided under Section 147 of MV Act,

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which prescribes the requirements of the policy and limits of liability. The owner had a statutory mandate, as per Section 146 of MV Act, to cover third party risk, which would not be covered within the ambit of the CPM Policy. Therefore, the Insurance Company would be exonerated and liability would have to be jointly borne by the owner and driver.

46. As regards the compensation awarded, alignments shall be made with respect to the standardization provided by the Constitutional Bench of Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680. Therefore, future prospects will be awarded at 40% and not 50%, since the deceased was working in a private job. Loss of estate and funeral expenses shall be awarded at Rs. 15,000/- each and loss of consortium shall be awarded at Rs. 40,000/-, since there was only one claimant.

47. The revised compensation shall be as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs.1,62,750/-	Rs. 1,62,750/-
2	Add: Future Prospects (B)	Rs. 81,375/-	Rs. 65,100/-
3	Less: Personal expenses of deceased (C)	Rs. 1,22,062.5/-	Rs. 1,13,925/-
4	Loss of dependency (A+B)-C=D	Rs. 1,22,062.5/-	Rs. 1,13,925/-
5	Multiplier (E)	18	18
6	Total loss of dependency (D x E)= (F)	Rs. 21,97,125/-	Rs. 20,50,650/-
7	Medical Expenses (G)	Rs. 4,32,137/-	Rs. 4,32,137/-
8	Compensation for loss of consortium (H)	Rs. 44,000/-	Rs. 40,000/-

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9	Compensation for loss of estate (I)	Rs. 20,000/-	Rs. 15,000/-
10	Compensation towards funeral expenses (J)	Rs. 20,000/-	Rs. 15,000/-
11	Total compensation (F+G+H+I+J)=K	Rs. 27,13,262/-	Rs. 25,52,787/-
12	Rate of Interest Awarded	9%	9%
13	Reduced Compensation	Rs. 1,60,475/-	

Directions

48. Accordingly, compensation has been reduced by *Rs. 1,60,475/-* (‘***reduced compensation***’).

49. By order dated 19th January 2024, this Court had directed the Insurance Company to deposit the entire amount of compensation (‘***deposited amount***’) before the MACT and further directed release of *Rs. 7,00,000/-* to the claimant.

50. Considering that the Insurance Company has been exonerated from paying compensation, the Insurance Company shall be at liberty to recover the amount which has already been released to the claimant i.e. *Rs. 7,00,000/-*, from the driver and owner. However, the same shall not be recoverable from the claimant.

51. Balance amount from the deposited amount, along with accrued interest, shall be refunded to the Insurance Company.

52. The revised compensation, along with accrued interest, shall be deposited by the owner before the MACT within 4 weeks, which will be released as lumpsum to the claimant within 2 weeks thereafter.

53. The appeal is disposed of in the above terms.

54. Pending applications, if any, are rendered infructuous.

55. Copy of this judgment be sent to the MACT and Bank for

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information and compliance.

56. Statutory deposit, if any, shall be refunded to the Insurance Company.

57. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

NOVEMBER 19, 2026/sm/*sp*

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