



CGHC010369122019



2026:CGHC:27647

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1955 of 2019

1 - State of Chhattisgarh Through The Collector, Surguja Ambikapur Chhattisgarh.

... Appellant

versus

1 - Devmunia Wd/o Late Devnath Aged About 32 Years Caste - Rajwar, Occupation- Housewife, R/o Village Ratanpur, Tahsil Surajpur District Surguja Chhattisgarh (Now District Surajpur).

2 - Laxman Prasad S/o Late Devnath Aged About 20 Years Caste - Rajwar, Occupation- Student, R/o Village Ratanpur, Tahsil Surajpur District Surguja Chhattisgarh (Now District Surajpur).

3 - Mahendra Kumar S/o Late Devnath Aged About 17 Years Minor Represented Through Vali Mother Devmunia, Caste - Rajwar, Occupation- Student, R/o Village Ratanpur, Tahsil Surajpur District Surguja Chhattisgarh (Now District Surajpur).

4 - Kumari Meena D/o Late Devnath Aged About 13 Years Minor Represented Through Vali Mother Devmunia, Caste - Rajwar, Occupation- Student, R/o Village Ratanpur, Tahsil Surajpur District Surguja Chhattisgarh (Now District Surajpur).

5 - The Oriental Insurance Company Limited Through The Branch Manager, Near Ambedkar Square, Ambikapur, District Surguja Chhattisgarh.

6 - Bhuneshwar Prasad Rajwade S/o Shri Tilbikram Ram Aged About 32 Years Caste - Rajwar, Occupation - Driver, R/o Village Harra Tikara, P.S. Jainagar, Tahsil Surajpur District Surguja Chhattisgarh.

7 - The Principal/ Director Granodaya Deaf And Dumb School, Bishrampur, Tahsil Surajpur District Surguja Chhattisgarh.

... Respondents

For Appellant	:	Mr. H.A.P.S. Bhatia, P.L.
For Respondent No.5	:	Mr. Shashank Agrawal, Advocate on behalf of Mr. Sudhir Agrawal, Advocate

(Single Bench)

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment on Board

06.07.2026

- 1.** The State of Chhattisgarh/appellant has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 calling in question the legality, validity and correctness of the impugned award dated 24.04.2018 passed by the learned First Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur (C.G.) (for short 'the Tribunal') in Motor Accident Claims Case No.123/2007, by which the liability to pay compensation has been fastened upon the appellant/State and driver.
- 2.** Mr. H.A.P.S. Bhatia, learned P.L. for the State/appellant would submit that the learned Tribunal was absolutely justified in fastening the liability upon the appellant who had requisitioned the vehicle on the registered person. Therefore, the appellant/State is not liable to pay compensation.
- 3.** Mr. Shashank Agrawal, learned counsel appearing for the Insurance Company/respondent No.5 would submit that in the accident two persons had died, and the driver's case was subject matter of **MAC No.1970/2019 [State of Chhattisgarh Vs. Vanaspati Devi & Ors.]**, which has

already been dismissed by this Court holding the State is liable to pay compensation.

- 4.** In this case, the learned Claims Tribunal, in para 42, has recorded the finding that the vehicle was requisitioned by the Collector, Surguja on 06.04.2004, and it was being driven by driver Bhuneshwar – Defendant No.2, under the instruction of Collector, Surguja, and observed in paras 42 and 43 as under :-

“(43) अनावेदक छ०ग० शासन द्वारा कलेक्टर सरगुजा अम्बिकापुर की ओर से दोनों दावा प्रकरणों में ऐसे कोई तथ्य प्रस्तुत नहीं किये गये हैं कि, दिनांक 17.04.2004 को वाहन अधिग्रहण आदेश के विपरीत वाहन स्वामी के द्वारा वाहन का आमद न देकर अपने नियोजन में वाहन का उपयोग किया जा रहा था। इसलिए दस्तावेजी साक्ष्य की उपलब्धता में उक्त आक्षेपित वाहन सी.जी.15 ए 1590 दिनांक 17.04.2004 को कलेक्टर सरगुजा के अधिग्रहण आदेश दिनांक 06.04.2004 के अनुसार वाहन स्वामी के कब्जे / नियोजन में नहीं, बल्कि अनावेदक छ०ग० शासन द्वारा कलेक्टर सरगुजा अम्बिकापुर के नियोजन में अनावेदक भुनेश्वर के द्वारा चालन किया जाना प्रमाणित है। इसलिए दुर्घटना दिनांक को अनावेदक भुनेश्वर के द्वारा आक्षेपित वाहन कमांक-सी.जी. 15 ए

1590 का चालन कर दुर्घटना कारित करने एवं उक्त दुर्घटना में आवेदकगण को कारित क्षतिपूर्ति अदायगी हेतु मो० दु०दा० क्रमांक-123/2007 के अनावेदक क्रमांक-04 एवं मो० दु०दा० क्रमांक-124/2007 में अनावेदक क्रमांक-05 के रूप में समाहित शासन द्वारा कलेक्टर सरगुजा अम्बिकापुर, उत्तरदायी है।

(43) इस प्रकार अनावेदक भुनेश्वर आक्षेपित वाहन का चालक था, उसके द्वारा लापरवाहीपूर्वक वाहन चालन कर दुर्घटना कारित की गयी। इसलिए वह दुर्घटना में कारित क्षतिपूर्ति के लिए प्रत्यक्ष रूप से उत्तरदायी है। अनावेदक शासन द्वारा कलेक्टर सरगुजा अम्बिकापुर जिसके नियोजन में अनावेदक भुनेश्वर के द्वारा वाहन चालन कर दोनों दावा प्रकरणों के आवेदकगण को क्षति कारित की गयी है। इसलिए अनावेदक शासन द्वारा कलेक्टर सरगुजा अम्बिकापुर भी उक्त क्षतिपूर्ति राशि अदायगी हेतु दायित्वाधीन है। आवेदकगण मो०दु०दा०क्रमांक-123/2007 में अनावेदक क्रमांक-02 भुनेश्वर एवं अनावेदक क्रमांक-04 शासन द्वारा कलेक्टर सरगुजा अम्बिकापुर से तथा मो०दु०दा०क्रमांक-124/2007 में आवेदकगण अनावेदक क्रमांक-01 भुनेश्वर एवं अनावेदक क्रमांक-05 शासन द्वारा कलेक्टर सरगुजा अम्बिकापुर से क्षतिपूर्ति राशि पृथक-पृथक या संयुक्त रूप से प्राप्त करने के अधिकारी हैं।"

5. The Hon'ble Supreme Court in the matter of **District Magistrate and District Election Officer and Collector, Gwalior, M.P. vs. National Insurance Company Limited and Others**¹ has held that when the vehicle is requisitioned by the State under statutory authority, possession and control of the vehicle stand transferred from the owner to the State. Liability to pay compensation thus lies with requisitioning authority and not with the insurer or the registered owner and observed in para 9 as under :-.

“9. When a public authority requisitions a privately owned vehicle for public purposes, the nature of possession and control changes entirely. The owner is divested of custody and decision-making power, and the vehicle is placed at the disposal of the State for governmental functions. During this period, the owner neither directs its use nor derives any benefit from it. It only stands to reason that in such circumstances, if an untoward incident occurs, responsibility would properly to rest with the requisitioning authority and not with the insurer engaged by the owner for ordinary, private or commercial use, as the case may be. Once requisitioned, the vehicle is operated under official directions. The authority determines the manner of deployment, the purpose for which it is used, and the conditions under which it is operated. The owner has no say in these matters.

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Where control is assumed by the State, the legal consequences arising from that control cannot, in fairness, be shifted back to a private insurer whose contractual engagement was premised on a wholly different footing. It is equally important to recognize that a requisition is not a voluntary arrangement, instead it is a command issued under statutory authority, as stated by the judgments referred to supra. The owner does not consent to part with possession; he is compelled to do so. The insurance policy obtained by him envisions and accounts for the vehicle's regular and lawful use in the ordinary course. Compelled deployment for public functions cannot reasonably be characterised as "regular use" within the 'usual' contemplation. To fasten liability upon the insurer in these circumstances would be to extend the contract beyond the risk that was agreed to be covered. Requiring the insurer to answer for consequences arising from a use neither authorised nor controlled by the insured would be unfair. The insurer assesses and underwrites risk based on the insured's ordinary operations. When the State steps in, assumes control, and deploys the vehicle for its own purposes, it assumes with that control the corresponding responsibility. Further, when statutory power is exercised to requisition private property in the public interest, that power carries with it an obligation to answer for the consequences flowing from such compelled use. To hold otherwise would impose upon private parties and their insurers the burden of risks

generated exclusively by governmental action.”

6. In light of aforesaid principle laid down by Their Lordships' in the Supreme Court in the matter of ***District Magistrate (supra)***, and considering the fact that other case arising out of case of driver/defendant No.2 has already been dismissed by this Court which was subject matter in MAC No.1970/2019, I do not find any merit in the present appeal.
7. Accordingly, the appeal deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge