CGHC010156472019 2026:CGHC:33732

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ANKIT KUMAR SINGH
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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 922 of 2019

- Bhagdan Singh Chouhan S/o Late Budhau Ram Chouhan, Aged About 57 Years, R/o Village Radhapur, Amaldiha, Police Station Chandrapur, Tahsil Dabhara, District Janjgir Champa Chhattisgarh. (Owner).

... Appellant

versus

1. Tejram Sao S/o Panbudhi Sao, Aged About 35 Years, Occupation Labour;
2. Geeta Bai W/o Tej Ram Sao, Aged About 32 Years;
   Both R/o Village Shankarpali, Police Station And Tahsil Pusore, District Raigarh, Chhattisgarh.
3. Govind Sidar S/o Mehattar Sidar, Aged About 30 Years, R/o Village Ghughwa, Police Station And Tahsil Pusore, District Raigarh, Chhattisgarh.
4. Manager, Cholamandalam M.S. Genral Insurance Company Limited Through Branch Manager, Cholamandgalam M.S. General Insurance Company Limited, Dhimrapur Road, Raigarh, Tahsil And District Raigarh Chhattisgarh.

... Respondents

For Appellant	:-	Mr. Ishwar Jaiswal, Advocate.
For Respondent No.4	:-	Mr. Sangeet Kumar Kushwaha, Advocate.

SB- Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

04.08.2026

1. This appeal has been filed by the appellant/ Owner of the offending vehicle under Section 173 of the Motor Vehicles Act,

1988 (for short “Act of 1988”) challenging the impugned award dated 15.02.2019 passed by the 1st Additional Motor Accident Claims Tribunal, Raigarh, Chhattisgarh (for short “Claims Tribunal”) in Claim Case No. 50/2018, whereby the Claims Tribunal allowed the claimants’ application and awarded ₹5,00,000/- along with interest by fastening liability upon owner and driver of the offending vehicle.

2. Mr. Ishwar Jaiswal, learned counsel for the appellant/owner, would submit that the Claims Tribunal has recorded perverse finding that driver did not have the valid and effective driving license to drive the vehicle even the vehicle was being driven by one Til Sai (NAW-2), therefore, the liability has wrongly been fasten upon the owner, it would be the Insurance Company who is liable to pay the compensation to the claimants. As such, the appeal deserves to be allowed.

3. Mr. Sangeet Kumar Kushwaha, learned counsel for the Insurance Company/ respondent No. 4 herein, would oppose the prayer made by learned counsel for the appellant and support the impugned award.

4. Having heard learned counsel for the parties, considered their rival submissions made herein above and after going through the records, it appears that the Claims Tribunal has clearly recorded

a finding that the offending vehicle was driven by Govind Sidar, and he did not have the valid and effective driving license to drive the vehicle. Furthermore, the documents of the criminal case (Ex.P/1 & Ors.) would show that the vehicle was driven by the Govind Sidar and even the Claims Tribunal has appreciated the evidence of Til Sai (NAW-2) and came to the conclusion that the vehicle was being driven by Govind Sidar, which, in my considered opinion, is correct finding based on evidence available on record and the same is neither perverse nor contrary to the records. Even otherwise, no evidence has been led by the owner in support of his plea. As such, the appeal is liable to be and is hereby dismissed.

5. However, before parting with the record, one fact is required to be noticed herein that the Claims Tribunal while reaching to the conclusion did not follow the principle of law of pay and recover laid down by the Supreme Court in the matter of <u>National Insurance Company Ltd. v. Swaran Singh and others</u>[1] and did not direct the Insurance Company to pay the compensation first and thereafter, recover the same from the owner and driver which is a serious error on the part of the Claims Tribunal, as the driver of the offending vehicle did not have the valid and effective driving license to drive the vehicle, therefore, the principle of pay and

1 (2004) 3 SCC 297

recover would be applied. Since the Claims Tribunal has awarded ₹5,00,000/- (Five Lakhs Rupees) to the claimants and out of which 50% has already been paid by the owner/appellant herein i.e. ₹2,50,000/-, the remaining 50% is directed to be paid by the Insurance Company and same will be disbursed to the claimants to secure the ends of justice and ensure claimants get the fruits of the award. However, the Insurance Company would be entitled to recover the same from the owner and driver of the offending vehicle in light of principle of law laid down by the Supreme Court in the matter of Swaran Singh (supra).

6. In view of the above, the instant appeal is dismissed and the impugned award is modified to the extent as indicated herein above. No cost(s).

7. A copy of this judgment be sent to the concerned Presiding Officer for necessary information.

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit