



CGHC010281592019



2026:CGHC:33759

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1648 of 2019

- Prakash Chand Pagariya S/o Late Deep Chand Pagariya, Aged About 72 Years, R/o D- 41 (wrongly mentioned as B-41), Tagore Nagar, Raipur, District Raipur, Chhattisgarh. (Owner Of Vehicle Tractor, No. C.G. 04- DA – 4764).

... Appellant

versus

1. Motiram Yadav S/o Late Punit Yadav, Aged About 47 Years;
2. Neera Bai (Died And Deleted) (As Per Honble Court Order Dated 30-04-2026).
3. Anita Yadav D/o Motiram Yadav, Aged About 23 Years;
All are R/o Village Charoda, Post Kosmi, Block, Chhura, Thana, Chhura Tashil Chhura District Gariyaband, Chhattisgarh. (Claimants)
4. United India Insurance Company Limited Amar Complex, Jeevan Beema Marg, Pandri, Raipur, Tahsil And District Raipur, Chhattisgarh. (Insurer Of Vehicle Tractor No. C.G. 04, - DA- 4764).

... Respondents

For Appellant	:-	Mr. Sangeet Kumar Kushwaha, Advocate.
For Respondents No.1 to 3	:-	Mr. Vikash A. Shrivastava, Advocate.
For Respondent No.4	:-	Mr. R.N. Pusty, 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 02.04.2019 passed by the 5th Additional Motor Accident Claims Tribunal, Raipur, Chhattisgarh (for short “Claims Tribunal”) in Claim Case No. 14/2013, whereby the Claims Tribunal allowed the claimants’ application and awarded ₹5,04,500/- along with interest for the death of Krishna Kuamr Yadav, who was the driver of the offending vehicle, by fastening liability upon owner of the offending vehicle.

2. Mr. Sangeet Kumar Kushwaha, 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, 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. R.N. Pusty, 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 and after going through the records, it appears that the Claims Tribunal has clearly recorded the finding that the offending vehicle was being driven by deceased Krishna Kumar Yadav and the deceased did not have the valid and effective driving license to drive the offending vehicle. Furthermore, it appears that no evidence has been led by the owner that the deceased have the valid and effective driving license to drive the

offending vehicle. In that view of the matter, in my considered opinion, the finding recorded by the Claims Tribunal is correct finding, based on evidence available on record and the same is neither perverse nor contrary to the records. As such, the appeal deserves 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 **National Insurance Company Ltd. v. Swaran Singh and others**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 recover would be applied. As such, the Insurance Company is directed to pay the compensation to the claimants 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 of the offending vehicle in light of principle of law laid down by the Supreme Court in the matter of **Swaran Singh** (supra).

¹ (2004) 3 SCC 297

MAC No. 1648 of 2019

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