(2025) 09 CHH CK 0444

In the Chhattisgarh High Court

Case No : MAC No. 160 of 2022

Branch Manager, The New India Insurance Company Ltd	APPELLANT
Vs	
Om Prakash Rathia	RESPONDENT

Date of Decision : 04-09-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 173
Code of Civil Procedure, 1908 — Order 11 Rule 16

Citation : (2025) 09 CHH CK 0444

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Sudhir Agrawal, Abhishek Saraf

Final Decision : Dismissed

Judgement

Sanjay K. Agrawal, J

1. Since common question of law and facts are involved in both the appeals, they are being clubbed together, heard together and are being decided of by this common judgment.

2. The appellant/insurance company has preferred these appeals under Section 173 of the Motor Vehicles Act, 1988 calling in question the legality, validity and correctness of the impugned award dated 28.09.2021 passed by the learned Additional Motor Accident Claims Tribunal, Gharghoda, District Raigarh in Claim Case No.37/2019, by which the claim application of the claimant/respondent No.1 in MAC/160/2022 has been allowed and liability to pay compensation to the extent of Rs.1,59,644/-along-with interest @9% from the date of filing of claim application has been fastened upon the insurance company as well as in Claim Case No. 36/2019, the compensation of Rs. 2,85,000/- has been awarded in favour of respondent No. 1 in MAC/159/2022 for property damage and again the liability of payment of compensation has been fastened upon the Insurance Company.

3. Omprakash (now dead) suffered injuries on account of the accident occurred on 21/09/2018 from the Truck bearing No. CG.08 L 3556 driven by Hemant Sahu (Respondent No.2) and owned by Ramsai (Respondent No.3) and insured with the appellant. He died on 30.12.2020 during pendency of the claim application and in the accident the vehicle Mahindra Bolero bearing Registration No.CG 13 W 9333 in which injured Omprakash was travelling got damaged. Learned Claims Tribunal after full fledged inquiry held that the insurance company has failed to prove the plea that the owner of the offending vehicle did not have valid permit to ply the vehicle on the date of the accident.

4. Mr. Sudhir Agrawal, learned counsel for the appellant/ insurance company, would submit that the owner of the vehicle did not have valid permit to ply the offending vehicle and though the notice under Order 11 Rule 16 of C.P.C. was served to the counsel for the claimant, but except for driving license, permit was not brought on record, therefore, the insurance company ought to have been exonerated from the liability to pay compensation.

5. Mr. Abhishek Saraf, learned counsel for the claimant, would submit that the insurance company did not take a specific plea that the offending vehicle did not have valid permit to ply on the road, therefore, the Claims Tribunal has rightly fastened the liability upon the insurance company and, as such, the appeal deserves to be dismissed.

6. I have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the records meticulously.

7. The insurance company has only taken a plea that the vehicle was being plied in breach of terms and conditions of the insurance policy but did not take the specific plea that the owner of the vehicle did not have a valid permit to ply the vehicle on the road. However, the insurance company has examined Pratap Kerketta (DW-1), Administrative Officer of the Insurance Company, who has stated the fact that the owner of the vehicle did not have valid permit to ply the vehicle on the date of incident. However, the learned Claims Tribunal, considering the material available on record, came to the conclusion that the insurance company has failed to establish the fact that the owner of the vehicle did not have a valid permit to ply the offending vehicle on the road. Though the insurance company has served notice to the owner but the fact remains, that no material has been brought on record to hold that the owner of the offending vehicle did not have valid permit to ply the vehicle on the road. In that view of the matter, the learned Claims Tribunal has rightly fastened the liability of payment of compensation upon the Insurance Company and, as such, I do not find any good ground warranting interference in the impugned award.

8. In the result, both the appeals are dismissed. No cost(s).