(2025) 11 CHH CK 1809

In the Chhattisgarh High Court

Case No : MAC No. 825 Of 2025

United India Insurance Com. Ltd — APPELLANT

Vs

Chanda Bai — RESPONDENT

Date of Decision : 24-11-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 166
Bhartiya Nagrik Suraksha Sanhita, 2023 — Section 94

Citation : (2025) 11 CHH CK 1809

Hon'ble Judges : Rakesh Mohan Pandey, J

Bench : Single Bench

Advocate : Swati Agrawal, Pankaj Agrawal, Atul Gabel

Final Decision : Dismissed

Judgement

Rakesh Mohan Pandey, J

1. The appellant/Insurance Company has filed this appeal assailing the award passed by the learned II nd Additional Motor Accident Claims Tribunal, Raigarh passed in Claim Case No. 183/2024, dated 20.02.2025, whereby the learned Tribunal has passed award to the tune of Rs.15,16,072/- with interest @ 6 % per annum and fastened liability with rider & owner of the offending vehicle with stipulation of pay and recover.

2. Facts in brief are that on 31.07.2024, at about 15.30hrs., the rider of the offending motorcycle bearing registration No. CG-13-AY-6543 by driving it rashly and negligently, dashed the vehicle (CG-11-AT-2022), as a result, deceased Sanjay Kumar Uraon, fell down, sustained grievous injuries and succumbed to it. The Claimants, who are the parents & siblings of the deceased, filed a claim case under Section 166 of the Motor Vehicles Act and claimed compensation to the tune of Rs.78,86,000/-. The insurance company filed a reply and took a plea that the riders of both motorcycles were not wearing helmets at the time of the accident and both motorcycles were being driven in contravention of the Motor

Vehicles Rules. It is also stated that the riders of both motorcycles did not possess effective and valid driving licences; therefore, the insurance company is not liable to indemnify the award. The rider and owner of the vehicle remained ex parte. The Tribunal framed issues, parties led evidence, and thereafter the award was passed.

3. Ms. Swati Agrawal, learned counsel appearing for the appellant would argue that the riders of both motorcycles were not using helmets, therefore, the learned Tribunal should have held the rinders guilty of negligence. She would further contend that the deceased as well as the rider of other motorcycle did not produce driving licences before the learned Tribunal to establish that they were not riding in breach of the insurance policy conditions. She would also submit that the learned Tribunal ignored these facts and wrongly applied the principle of "pay and recover." She would contend that the learned Tribunal should have fastened the liability with the rider & owner of the offending vehicle; thus, she prayed that the appeal may be allowed.

4. On the other hand, Mr. Gavel, learned counsel appearing for respondents No.1 to 3 would oppose the submissions made by counsel for the appellant and argue that the learned Tribunal has passed just and proper award. He would submit that the offending vehicle was insured with the insurance company, therefore, the learned Tribunal rightly applied the principle of "pay and recover." He would pray that the appeal may be dismissed.

5. Heard learned counsel for the parties and perused the record.

6. The learned Tribunal framed Issue No. 1 and held that the rider of the offending motorcycle bearing Registration No. CG-13-AY-6543 drove it in rash & negligent manner and dashed the motorcycle of the deceased from the backside. The witnesses as well as the relevant documents i.e. Ex. P/1 (FIR), Ex. P/4 (details of crime), Ex. P/8 and P/9 (seizure memo), and Ex. P/12 final report establish that the motorcycle of the deceased was dashed from back by the offending motorcycle, therefore, the contention made by Ms. Agrawal regarding negligence on the part of riders of both the motorcycles cannot be accepted.

7. The learned Tribunal framed Issue No. 2 regarding breach of insurance policy conditions and held that on the date of the accident, though the offending vehicle was insured with the insurance company, the rider and owner of the vehicle could not produce a valid driving licence. A notice was issued under Section 94 of the BNSS by Police Station Kotara Road to the rider of the offending motorcycle, Vishal Yadav/respondent No.5, and the issue was decided in favour of the insurance company.

8. The learned Tribunal further held that the offending vehicle (CG-13-AY-6543) was insured with the insurance company/appellant and policy was effective for the period from 08.02.2024 to 07.02.2029.

9. Taking into consideration the fact that the offending vehicle was insured but

the rider of the offending vehicle did not have a valid and effective driving licence, the learned Tribunal rightly fastened liability upon the rider & owner and at the same time, directed the insurance company to first satisfy the award and thereafter recover it from the owner & rider, I do not find any good ground to interfere with the award passed by the learned Tribunal. Accordingly, this appeal fails and is hereby dismissed.

