



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 173 of 2016

Judgment Reserved on 03.09.2025
Judgment Pronounced on 26.09.2025

United India Insurance Company Limited Through Its Divisional Manager, Divisional Office, Main Road, Korba, Tahsil And District Korba Chhattisgarh.....Non Applicant No. 03, **--- Appellant**

versus

1 - Kunal Ghai S/o Ravi Kumar Ghai, Aged About 19 Years R/o Tulasi Marg, Korba, District Korba Chhattisgarh.....Applicant,

2 - Sudama Kumar Mandal S/o B. Mandal, Permanent Address 3-A, Ray Street, Kolkata 20 West Bengal...Driver...Hall Mukam C/o Shri Rajeev Kumar Chaudhary, S/o Shri Kapileshwar Chaudhary, R/o Indira Nagar Darri Korba, Tahsil And District Korba Chhattisgarh.....Non Applicant No. 01,

3 - Rajeev Kumar Chaudhary S/o Shri Kapileshwar Chaudhary, R/o Indira Nagar Darri, Korba Tahsil And District Korba Chhattisgarh.....Owner.....Non Applicant No. 02,

4 - Vishal Sehgal S/o Shri S. K. Sehgal, R/o Rani Road Korba, Tahsil And District Korba ChhattisgarhNon Applicant No. 4, **--- Respondents**

MAC No. 174 of 2016

United India Insurance Company Limited Through Its Divisional Manager, Divisional Office, Main Road, Korba, Tahsil And District Korba Chhattisgarh.....Non Applicant No. 03, **--- Appellant**

Versus

1 - Vishal Sehgal S/o Shri Suresh Sehgal, Aged About 19 Years R/o Rani Road, Korba, District Korba Chhattisgarh.....Applicant,

2 - Sudama Kumar Mandal S/o Baleshwar, R/o 3-A, Ray Street, Kolkata 20, West Bengal, Hall Mukam C/o Rajeev Kumar Chaudhary, S/o Shri Kapileshwar Chaudhary, R/o Indira Nagar Darri, Korba Chhattisgarh.....Driver.....Non Applicant No. 01,

3 - Rajeev Kumar Chaudhary S/o Shri Kapileshwar Chaudhary, Aged About 42 Years R/o Indira Nagar Darri, Korba Chhattisgarh.....Owner.....Non Applicant No. 02,

--- Respondents

MAC No.173/2016

For Appellant	: Shri Pravesh Sahu appears on behalf of Shri Dashrath Gupta, Advocate
For Respondent 1	: Shri Vikas Kumar Pandey appears along with Shri T.R.Patel, Advocate.
For Respondents 2 to 4	: None, though served.

MAC No.174/2016

For Appellant	: Shri Pravesh Sahu appears on behalf of Shri Dashrath Gupta, Advocate
For Respondents	: None, though served.

(HON'BLE SHRI JUSTICE RADHAKISHAN AGRAWAL)

C.A.V. Judgment

1. Since both the above captioned appeals arise out of the same accident that occurred on 16.03.2003, therefore, they are being heard together and disposed of by this common judgment.

2. By way of instant appeals, United India Insurance Company Limited seeks exoneration from its liability passed vide award dated 05.10.2015 by Motor Accidents Claims Tribunal, Korba awarding Rs.4,50,000/- as total compensation in Claim Case No.82/2014 (Kunal Ghai vs. Sudama Kumar Mandal & others) and Rs.1,00,000/- as total award in Claim Case No. 83/2014 (Vishal Sahgal vs. Sudama Kumar Mandal) alongwith interest @ 9% per annum from the date of claim petition till its realisation.

3. As per averments in claim petitions, on 16.03.2003, when the claimants/injured persons were returning from Korba on motorcycle bearing registration No.CG-12/5286, it was dashed by the Tempo Trax bearing registration No.CG-12-7874 (for short, the offending vehicle) being driven by Non-applicant No.1 – Sudama Kumar Mandal in a rash and negligent manner, due to which, both the claimants suffered injuries over their bodies. At the time of accident, the motorcycle was being driven by Visahal Sahgal whereas Kunal Ghai was sitting as a pillion rider. It is also not in dispute that at the time of accident, the offending

vehicle was owned by Non-applicant No.2 Rajeev Kumar and was insured with the appellant/insurance company.

4. Owing to injuries sustained by claimants, claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 (for short, the MV Act) seeking total compensation of Rs.1,47,00,000/- by claimant Kunal on various heads whereas, claimant Vishal Sahgal sought compensation to the tune of Rs.11,50,000/- on various heads.

5. After appreciating the evidence, oral as well as documentary, brought on record, the learned Claims Tribunal passed an award, as mentioned in para 2 of this judgment, while fastening liability upon the Non-applicants jointly and severally. Hence, these appeals by the insurance company seeking exoneration from its liability.

6. Shri Pravesh Sahu, learned counsel for the appellant/insurer would submit that the offending vehicle was insured with the appellant/insurance company, as is evident from Ex.D.5 and the same was issued for private Car package policy, which covers use of the vehicle only for any purpose whereas the offending vehicle, on the date of accident, was being used on hire or reward meaning thereby that it was being used for public purposes, which is in breach of policy condition, therefore, the appellant/insurance company is not liable to indemnify the compensation.

7. Shri Vikas Kumar Pandey, learned counsel for respondent No.1/claimant in MAC No. 173/2016 would submit that the claimant has not filed any separate appeal against the impugned award. He would further submit that the insurance company has utterly failed to prove that the vehicle was being driven in breach of policy of condition and that, the injured/claimant was pillion rider of the motorcycle and falls within the category of third party for the offending vehicle. He would next contend that the learned Claims Tribunal, after minutely elaborating the evidence and documents on record, has rightly fastened the liability against the insurance company, which warrants no interference.

8. I have heard learned counsel for the parties and perused the records.

9. It is not disputed that on the date of accident, the offending vehicle was insured with the appellant/insurance company, as is clear from Ex.D.5, which is an insurance policy. A perusal of Ex.D.5 would show that it is a private car insurance policy. Further perusal of Ex.D.5 would reveal that the insurance company had obtained the basic premium for third party, premium of personal accident to 9 unnamed passengers, compulsory PA to owner-driver and premium for WC to employee. It also appears that the claimants/injured persons, one of which was driver of the motorcycle and the another was pillion rider, have come within the category of third party and that motorcycle was dashed by the offending vehicle.

10. Now, it is to be seen whether the offending vehicle was being driven in breach of policy conditions. N.A.W.3 (1) A.K.Pal, Administrative Officer, has stated that the insurance policy (Ex.D.5) in 5 pages was issued and further stated that the insurance company is not liable to indemnify the compensation if the offending vehicle was being used for commercial purpose. N.A.W.3 (1) Sushil Kumar Shukla was the Superintending Engineer in S.E.C.L. who has issued work order vide Ex.D.1C for hiring of diesel Jeep, but he admitted in his cross-examination that the work order (Ex.D.1C) did not disclose the registration number of vehicle. Therefore, it does not appear that the work order was issued for the offending vehicle. This witness further admitted in cross-examination that he could not state as to whether on the date of accident, the offending vehicle was on duty with the S.E.C.L. or not. N.A.W.3 (2) P.N.Patel, Assistant Grade-2 in the office of D.T.O. Korba has stated that, for offending vehicle, temporary permit was issued vide Ex.D.4C, which discloses that it was issued for private service vehicle effecting from 12.03.2003 to 31.05.2003. This witness further admitted that before the accident, the offending vehicle was converted into a private service vehicle.

11. In view of the above evidence, it is clear that the appellant insurance company could not prove that on the date of accident the offending vehicle was being plied in breach of policy conditions. So much so, Ex.D.5, the insurance policy would clearly reveal that it covers the risk of third party also and the

claimants/injured persons being fallen in the category of third party, would entitle for compensation from the appellant/insurance company.

12. In view of the foregoing discussions, this Court is of the opinion that the learned Claims Tribunal was justified in fastening liability upon the insurance company as it could not prove any breach of policy conditions and the finding recorded in this regard is just and proper and needs no interference by this Court, as held by the learned Claims Tribunal

13. In the result, both the appeals filed by the appellant/insurance company, being devoid of merit, are liable to be and are hereby dismissed. However, rest of the conditions of the impugned award shall remain in tact.

Sd/-

(Radhakishan Agrawal)
JUDGE