



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No..... of 2025
(@Special Leave Petition (C) No.5885 of 2019)**

MANJUSHA & ORS.

...APPELLANTS

VERSUS

**UNITED INDIA ASSURANCE
COMPANY LIMITED & ANR.**

...RESPONDENTS

J U D G E M E N T

K. VINOD CHANDRAN, J.

1. Leave granted.
2. The question arising in this appeal is as to whether the family of the brother of the owner of the vehicle, who died in the accident when the tyre of the car he was driving burst, is entitled to claim compensation under the Motor Vehicles Act, 1988¹. It is trite that the insurer has no statutory liability to cover the risk of the owner, or as in this case the

¹ For brevity 'the MV Act'

driver of the vehicle, who steps into the shoes of the owner, when the statutory liability is restricted to third party liabilities.

3. In the present case the claimants, who are the widow, minor children and the parents of the deceased, approached the Tribunal, which granted an amount of Rs.25,82,000/- based on the income of the deceased and the amounts, incurred for transportation, loss of consortium as also travelling and funeral expenses. The insurance company filed an appeal essentially on the ground that there was negligence on the part of the driver, thus absolving the insurer from the liability to indemnify, since the driver, who steps into the shoes of the owner, is the tortfeasor. The High Court looked into the policy and found no case for imposing a statutory liability but found the comprehensive policy with additional premium, to cover only a liability to the extent of Rs.2,00,000/- as against any injury/death caused to the owner/driver. The High Court reduced the liability to Rs.2,00,000/-.

4. Mr. Amit Kumar Singh, learned Counsel for the respondent-insurance company relied on a number of decisions to substantiate the claim of the insurance

company before the Tribunal. It was also argued that the guidelines of the insurance company clearly indicates the limited liability insofar as the policy taken by the insurer, the owner of the vehicle. Learned Counsel for the claimants/respondent, however, contended that such a ground was never taken before the Tribunal or before the High Court. It was also contended that the guidelines were never produced in evidence nor was any witness examined on the part of the insurance company. The claimant had mounted the box, but no cross-examination was addressed upon the contentions now raised.

5. On facts, suffice it to notice that the deceased and the owner along with their families were travelling in the car when the right rear tyre burst, resulting in the car going out of control. The vehicle toppled and the driver of the vehicle suffered head injury, to which he succumbed. There is hence no negligence of the driver nor can any fault be attributed to him. The owner of the vehicle, the brother of the deceased, his wife and the wife of the deceased who were travelling in the car sustained injuries. It was categorically stated before the Tribunal that the car was driven safely, in moderate

speed with due diligence and caution and the accident occurred only on account of the tyre bursting. On the claim being raised, the owner of the vehicle admitted the accident and asserted that the driver had a valid driving licence to claim coverage under the comprehensive insurance policy.

6. The insurance company filed a written statement alleging no valid licence for the driver, resulting in breach of the conditions of policy by the owner and the negligence of the driver. The Tribunal framed five issues, the first of which was regarding the accident which was admitted to have taken place, in which the driver met his end, which was the second issue; not in dispute. The insurance cover, the third issue was also proved and so was the fourth issue regarding the age of the deceased and his income. The claimant's right to entitlement for compensation and interest was also found in favour. Insofar as the third issue regarding the insurance of the vehicle, the Tribunal found that the vehicle was covered by a comprehensive policy wherein premium of personal accident to owner-cum-driver was paid. The High Court on the other hand, found on a reading of the policy that the additional premium remitted, only

covered the liability to the owner-cum-driver to the extent of Rs.2,00,000/-.

7. Immediately we have to notice that the insurance policy is not produced in the records of the S.L.P, though, it is said to have been marked before the Tribunal as Ex. P56. Nor is the written statement of the insurance company produced in the records of the S.L.P. to establish that such a contention regarding limited liability was taken before the Tribunal; which from the reading of the award of the Tribunal does not seem to have been taken.

8. We will first look at the decisions placed on record by the learned Counsel appearing for the insurance company. ***Oriental Insurance Co. Ltd. v. Rajni Devi***² arose from a claim on the death of a person riding a motorcycle, along with another. The insurance company resisted the claim contending that although the owner of the vehicle deposited an extra amount of Rs.50 covering his personal insurance, the same would not cover the case of the pillion rider and in any event, the owner of the vehicle is not a third party within the meaning of

² (2008) 5 SCC 736

Section 147 of the Act. The claim was under Section 163A of the MV Act wherein was discussed a number of cases regarding the precise liability arising under a no fault liability claim filed under the said provision. In ***Oriental Insurance Co. Ltd. v. Jhuma Saha***³, the owner of the vehicle himself was to be blamed for the accident, in which event it was held; under Section 166 of the MV Act, the insured itself cannot be fastened with any liability giving rise to no question of the insurer indemnifying the insured. ***Dhanraj v. New India Assurance Co. Ltd. & Anr.***⁴ found that Section 147 of the MV Act does not require an insurance company to assume risk for death or bodily injury to the owner of the vehicle. The comprehensive policy taken therein assured a premium of Rs.4,989/- having been paid under own damage; which was found to cover only the liability arising from damage caused to the vehicle and non-electrical accessories and not the injury caused to the owner itself. It was observed that an owner of the vehicle can raise a claim validly, if there is a personal accident insurance taken out; which was not available in the said case. In

³ (2007) 9 SCC 263

⁴ (2004) 8 SCC 553

National Insurance Co. Ltd. v. Laxmi Narain Dhut⁵, the own damage claim was held to be possible of adjudication only by a forum under the Consumer Protection Act, wherein the cause could be adjudicated by the insured, the owner of the vehicle, against the insurer, without the junction of the claimants.

9. ***Ramkhiladi v United India Insurance Co.***⁶, ***Ningamma v. United India Insurance Co. Ltd.***⁷ and ***New India Assurance Co. Ltd. v. Sadanand Mukhi***⁸ were all cases under Section 163A of the MV Act, in which it was held that a borrower of a vehicle, who was driving, cannot raise a claim under no fault liability, since the driver of the vehicle steps into the shoes of the owner. In ***Ramkhiladi***⁶, the accident was caused by the collision of two motor bikes, and the claim was raised by the family of the deceased against the owner and insurance company of the bike which was driven by the deceased.

10. These are all cases with respect to the statutory liability, and we have to emphasise the personal

⁵ (2007) 3 SCC 700

⁶ (2020) 2 SCC 550

⁷ (2009) 13 SCC 710

⁸ (2009) 2 SCC 417

accident insurance cover, highlighted in one of the above cited decisions, which is relevant here. What assumes significance in the present case is that it is not the statutory liability, but the contractual liability of a personal accident cover which forms the basis of the claim raised. Admittedly, there was a personal accident cover taken. The question is only as to whether the liability was limited or not. As we noticed, neither the insurance policy is before us nor do we see a contention of limited liability having been taken, from the order of the Tribunal which notices the contentions taken in the written statement. The written statement as we observed has not been produced in the records of the case. However, we have the benefit of the memorandum of appeal filed before the High Court by the insurance company which is produced as Annexure P2. We do not see any such ground of a limited liability having been taken. The grounds taken from 1-8 are all with respect to the negligence of the driver and absence of a valid and effective driving licence. There is also a ground taken regarding the monthly income determination which obviously was not pressed before the High Court. The ground regarding absence of a valid licence was also not pressed.

11. When the contention of limited liability was neither taken before the Tribunal nor even in the memorandum of appeal filed, there was no reason for the High Court to look into the policy document to find limited liability; which again is urged before us on the basis of an extract of the Indian Motor Tariffs, termed to be a guideline issued, with respect to insurance policies, by the Tariff Advisory Committee. By the guidelines it is intended that a comprehensive regulatory framework governing the structure, terms, conditions and premium rates applicable to Motor Vehicle policies in India is created. It is stated that the IMT is binding on all general insurance companies, operating in the Country and ensures uniformity and fairness in underwriting motor insurance risk. No doubt, the guidelines issued by the Tariff Advisory Committee regulates the issuance of the policies by the insurers but unless it is specified in the insurance policy, it cannot bind the insured.

12. Specific reference was also made to IMT 16 which has the nominal heading 'personal accident to unnamed passengers other than insured and paid driver and the cleaner', which is stated to be limited to the amounts specified therein. Under IMT 16, there

is a tabular form which enables 100% compensation with respect to various injuries *inter alia* of death. It is in the proviso that there is a limit provided with specification that the Capital Sum Insured (CSI) per person is to be inserted. Whether such sum was inserted in the policy and whether such a contention was taken before the Tribunal is most relevant in the adjudication of the instant case.

13. In this context, we cannot but notice ***Ramkhiladi***⁶, in which there was a contention taken by the claimant that the deceased was employed by the owner of the vehicle, the motor bike. It was held in paragraph 9.3 that no evidence was led by the claimants to prove that the deceased driver was an employee of the owner. Pleadings and proof of such pleadings; by valid evidence led, is the crux and core of any adjudicatory process. Trite is the principle that there can be no proof offered without specific pleadings. The limited liability was not pleaded, by the insurance company, either before the Tribunal, as we see from the award made, nor in the appeal filed before the High Court as we see from the memorandum of appeal filed before the High Court.

14. We find absolutely no reason to sustain the High Court order, which we set aside. We restore the order of the Tribunal and direct the amounts awarded to be paid within a period of two months from today with interest @ 8% per annum as ordered by the Tribunal and whatever amounts have already been paid shall be deducted. The appellant shall provide the bank account details to the Insurance Company who shall transfer the amount online within the period specified hereinabove.

15. The appeal stands allowed as above.

16. Pending applications, if any, shall stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
JULY 25, 2025**