



NON- REPORTABLE

**SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 9538 OF 2025

(Arising out of Special Leave Petition (Civil) No. 1412 of 2024)

SUNITA & ORS.

...APPELLANT(S)

Versus

**UNITED INDIA INSURANCE
CO. LTD. & ORS.**

...RESPONDENT(S)

J U D G M E N T

SANJAY KAROL J.

Leave Granted.

2. The present appeal arises from the final judgment and order dated 12th December 2022, passed by the High Court of Madhya Pradesh at Jabalpur in Misc. Appeal No. 554 of 2017, which, in turn, was preferred against the award dated 19th December 2016 passed in Case Claim No.22 of 2015 by the Motor Accident Claim Tribunal, District: Seedhi (M.P).

3. The facts giving rise to the present appeal, in a nutshell are that on 27th November 2013, at about 8:15 p.m., the

deceased, namely, Gokul Prasad, aged 32 years, was returning home from a weekly market, travelling in a vehicle i.e., TATA 407 Truck bearing registration No. M.P. 53G/0386¹, being driven by Respondent No. 3 herein. Upon reaching near Kurwaiha Ghati Road, the said vehicle driven, in a rash and negligent manner, met with an accident. As a result, the deceased sustained severe injuries and died on the spot.

4. A claim petition was filed on behalf of the Appellants (*the legal representatives of the deceased*) under Section 166 of the Motor Vehicles Act, 1988, before the Tribunal seeking compensation to the tune of Rs. 49,26,000/- claiming the income of the deceased to be Rs.12,000/- per month engaged as a cloth-seller.

5. The Respondent Insurance Company opposed the claimant-appellant(s)'s claim and set up a plea of breach of Policy as the offending vehicle was being used as a loading vehicle without a valid permit, registration and fitness certificate. This was in violation of the conditions of the Insurance Policy. Also, the driver of the vehicle was also not holding a valid license. Consequently, the Insurance Company is not liable to pay any compensation.

6. The Tribunal *vide* its order dated 19th December 2016, awarded compensation amounting to Rs.19,53,000/- along with

¹ Hereinafter referred to as "Offending Vehicle".

interest @6% per annum. The liability to pay compensation was fastened upon the driver and the owner of the vehicle, jointly and severally, as there was a clear violation of the terms and conditions of the Policy. The Tribunal held that though the vehicle was commercial in nature but driven by the driver possessing a license only to drive a Light Motor Vehicle, i.e., a non-commercial vehicle. Furthermore, there was no endorsement stating that the driver was authorized to drive the commercial vehicle. Subsequently, the Tribunal concluded that the offending vehicle was insured under the “*Liability Only Policy*” which covered only third-party liability as no premium was paid covering the driver or the owner of the vehicle.

7. Being aggrieved thereof, the owner of the offending vehicle preferred an appeal before the High Court. The High Court *vide* impugned order dated 12th December 2022 dismissed the appeal filed by the owner, affirming the compensation awarded by the Tribunal. The Court observed that the Insurance Company stood rightly exonerated by the Tribunal with liability being fastened on the driver and owner of the vehicle. The High Court gave the following findings by referring to the decisions rendered by this Court:

7.1. By relying on ***Mukund Dewangan v. Oriental Insurance Company Ltd. Limited & Others***², the High

² (2017) 14 SCC 663.

Court held that the endorsement or any other authorization to drive a commercial vehicle was not required, if the driver was holding a license to drive the Light Motor Vehicle (LMV);

7.2. The offending vehicle is insured under the “*Liability Only Policy*”, which only fixes the liability of the Insurance Company towards third-party liability. Since no premium was paid to cover the liability of the driver as well as any passenger travelling, in the light of law laid down in ***New India Assurance Company Ltd. v. Vedwati & Ors.***³, and ***New India Assurance Company Ltd. v. Asharani & Ors.***⁴, the Court came at the conclusion that the liability of the Insurance Company stood rightly exonerated.

8. The present appeal has been instituted by the claimant-appellant(s). The significant ground of challenge made is that in view of law laid down in ***National Insurance Co. Ltd. v. Paravathneni & Anr.***⁵ wherein this Court observed that in a case of gratuitous passenger, the Insurance Company was liable to initially pay the compensation amount to the claimant-appellant(s) and then recover the same from the insured, the

3 (2007) 9 SCC 486

4 (2003) 2 SCC 223

5 (2009) 8 SCC 785

Courts below ought to have adopted the principle of “*pay and recover*”.

9. We have heard learned counsel for the parties. We have also heard the learned *amicus curiae*, Ms. Vidhi Pankaj Thaker, and perused the calculation chart prepared by her, indicating such payment of compensation to the claimant-appellant(s), which is just and fair.

10. The findings of the Courts below reveal that the driver of the vehicle involved in the accident was holding a valid license to drive a Light Motor Vehicle (LMV). However, in fact, the vehicle in question is a commercial one. We agree with the view taken by the High Court, holding that no endorsement was required to drive a commercial vehicle of the type in question, by the driver who possesses a license to drive a Light Motor Vehicle (LMV). In the present case, the offending vehicle was TATA 407 Truck, having a gross total weight of around 4995 Kg., which does not exceed 7500 Kg. We must advert to the recent finding of this Court laid down by the Constitutional Bench in ***Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi***⁶, wherein view taken by the three-Judge Bench in ***Mukund Dewangan (Supra)***, was affirmed while observing that:

6 (2024) 1 SCC 818

“181. Our conclusions following the above discussion are as under:

181.1. A driver holding a licence for light motor vehicle (LMV) class, under Section 10(2) (d) for vehicles with a gross vehicle weight under 7500 kg, is permitted to operate a “transport vehicle” without needing additional authorisation under Section 10(2)(e) of the MV Act specifically for the “transport vehicle” class. For licensing purposes, LMVs and transport vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

181.2. The second part of Section 3(1), which emphasises the necessity of a specific requirement to drive a “transport vehicle”, does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

181.3. The additional eligibility criteria specified in the MV Act and the MV Rules generally for driving “transport vehicles” would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7500 kg i.e. “medium goods vehicle”, “medium passenger vehicle”, “heavy goods vehicle” and “heavy passenger vehicle”.

181.4. The decision in Mukund Dewangan (2017) [Mukund Dewangan v. Oriental Insurance Co. Ltd., (2017) 14 SCC 663] is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the

MV Act and the MV Rules were not considered in the said judgment.”

(emphasis supplied)

Thus, in our considered view, in the present case, although the offending vehicle is a commercial one and the driver of the said vehicle at the time of accident possessed a license to only drive a Light Motor Vehicle (LMV) and, considering the gross weight of the vehicle in question is not in excess of 7500 Kg., the driver can be said to be holding a valid license to drive the same.

11. Then, the question which would arise is as to whether the liability could have been fastened upon the Insurer or not. In our considered view, not so, solely for the reason that the risk stood not covered, as no premium was paid.

12. The next question which arises for our consideration is whether the Insurance Company is liable to indemnify the compensation amount to the claimant-appellant and, thereafter, recover the same from the driver and owner of the vehicle.

13. Adverting to the facts in hand, from a bare perusal of the record, it is borne that the vehicle in question was insured with “*Liability Only Policy*” and no premium was paid to cover the driver, owner, or a gratuitous passenger travelling therein. However, even then, in our view, the Courts below erred in

holding that the Insurance Company is not liable to pay the compensation to the claimant-appellants, for the principle of “*Pay and Recover*” ought to have been invoked. As such, we are inclined to interfere with the above findings of the Courts below.

14. We must advert to the exposition of this Court in ***National Insurance Co. Ltd. v. Baljit Kaur***⁷. The deceased therein was travelling as a gratuitous passenger, and due to the rash and negligent driving of the offending vehicle, lost his life. The Insurance Company was directed to satisfy the amount awarded by the Courts below and recover the same from the owner of the vehicle, as the premium was not paid by the owner of the vehicle towards gratuitous passenger.

15. The above position has been followed by this Court in ***Anu Bhanvara v. IFFCO Tokio General Insurance Co. Ltd.***,⁸ wherein the injured person was travelling as a gratuitous passenger and was not covered under the Insurance Policy, the driver and owner of the vehicle was held liable for payment of compensation amount. This Court applied the principle of “*Pay and Recover*” and directed the Insurance Company to pay the amount and, thereafter, recover the same from the owner of the vehicle.

7 (2004) 2 SCC 1.

8 (2020) 20 SCC 632.

16. The aforementioned principle was adopted by this Court in various judgments of this Court in *Amrit Lal Sood v. Kaushalya Devi Thapar*⁹; *New India Assurance Co. Ltd. v. C.M. Jaya*¹⁰; *National Insurance Co. Ltd. v. Challa Upendra Rao*¹¹; *New India Assurance Co. Ltd. v. Vimal Devi*¹²; *National Insurance Co. Ltd. v. Saju P. Paul*¹³; *Manuara Khatun v. Rajesh Kumar Singh*¹⁴; and *Puttappa v. Rama Naik*¹⁵.

17. Applying the above expositions of law, the Courts below ought to have directed the Insurance Company to indemnify the amount and thereafter recover the same.

18. Therefore, in light of the attending facts and circumstances of the case, we are of the view that the Insurance Company is liable to indemnify the compensation amount awarded by the Tribunal and recover the same only from the owner of the offending vehicle.

19. In view of the above discussion, the driver of the offending vehicle is not liable as he was holding a valid driving license to drive the offending vehicle i.e., TATA 407 Truck.

9 (1998) 3 SCC 744.

10 (2002) 2 SCC 278.

11 (2004) 8 SCC 517.

12 2010 SCC OnLine SC 49.

13 (2013) 2 SCC 41.

14 (2017) 4 SCC 796.

15 2018 SCC OnLine SC 3496.

20. Regarding the monthly income of the deceased, we concur with the view taken by the Courts below in assessing the same to be Rs.12,000/- per month, for there being no error therein. Hence, in awarding compensation which is just and fair, we are inclined to increase the amount awarded under the conventional heads, namely, loss of estate, loss of consortium, and funeral expenses by 10% adverting to the settled principle of law laid down by this Court in *National Insurance Co. Ltd. v. Pranay Sethi*¹⁶, that such amount should be revised every three years.

21. In view of the aforesaid, the compensation now payable to the claimant-appellant(s) in accordance with law, is as follows:

CALCULATION OF COMPENSATION

Compensation Heads	Amount Awarded	In Accordance with
Monthly Income	Rs.12,000/-	<i>National Insurance Co. Ltd. v. Pranay Sethi</i> (2017) 16 SCC 680 <i>Para 37, 39, 41, 42 and 59.4</i>
Yearly Income	Rs.1,44,000/-	
Future Prospects (40%) (<i>Age being 32 years</i>)	1,44,000/-+ 57,600 = Rs.2,01,600/-	
Deduction (1/4)	2,01,600/- – 50,400/- = Rs.1,51,200/-	
Multiplier (16)	1,51,200/- X 16 = Rs.24,19,200/-	
Loss of Income of the Deceased	Rs.24,19,200/-	
Loss of Estate	Rs.18,150/- (with 10% increase	<i>National Insurance Co. Ltd. v. Pranay Sethi</i>

¹⁶ (2017) 16 SCC 680.

	every 3 years from 2017)	
Loss of Funeral Expenses	Rs.18,150/- (with 10% increase every 3 years from 2017)	(2017) 16 SCC 680 Para 59.8
Loss of Consortium	48,400 X 5 (with 10% increase every 3 years from 2017) = Rs.2,42,000/-	United India Insurance Co. Ltd. v. Satinder Kaur (2021) 11 SCC 780 Para 37.12 Rajwati alias Rajjo and Ors v. United India Insurance Company Ltd. and Ors. 2022 SCC Online SC 1699 Para 34 Sadhana Tomar & Ors. v. Ashok Khushwaha & Ors. 2025 SCC Online SC 554 Para 17
Total	Rs.26,97,500/-	

Thus, the difference in compensation is as under:

MACT	High Court	This Court
Rs.19,53,000/-	Rs.19,53,000/-	Rs.26,97,500/-

22. In that view of the foregoing discussion, the appeal filed by the claimant-appellants succeed and is allowed. The impugned Award dated 19th December 2016 passed in Case Claim No.22 of 2015 by the Motor Accident Claim Tribunal,

District: Seedhi (M.P.), as modified *vide* the impugned order dated 12th December 2022, passed in Misc. Appeal No. 554 of 2017, by the High Court of Madhya Pradesh at Jabalpur. Interest be awarded in accordance with the direction of the Tribunal, at 6% per annum.

23. Let the amount be directly remitted into the bank account of the claimant-appellant(s). The particulars of the bank account are to be immediately supplied by the learned counsel for the appellant(s) to the learned counsel for the respondent. The amount be remitted positively within a period of four weeks thereafter.

Pending application(s), if any, shall stand disposed of.

.....J.
(Sanjay Karol)

.....J.
(Joymalya Bagchi)

**New Delhi;
July 17, 2025**