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MA-1350-2012

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE HIRDESH

ON THE 2nd OF SEPTEMBER, 2025MISC. APPEAL No. 1350 of 2012*SANJAY CHATURVEDI**Versus**NARENDRA SINGH AND OTHERS*

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Appearance:

Shri R.P.Gupta - Advocate for the appellant.

Shri Ram Vilas Sharma- Advocate for respondent No.3.

Shri Jitendra Sharma on behalf of Shri Atul Gupta- Advocate for
respondent No.2.

.....
WITH

MISC. APPEAL No. 1365 of 2012*SMT. AMITA CHATURVEDI**Versus**NARENDRA SINGH AND OTHERS*

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Appearance:

*Shri R.P.Gupta- Advocate for appellant.**Shri R.V.Sharma- Advocate for respondent No.3.*

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ORDER

Miscellaneous Appeal Nos.1350/2012 and 1365/2012 under Section 173 of Motor Vehicles Act are filed by the appellants/claimants being aggrieved by the common impugned award dated 28.09.2012 passed by Sixth MACT, Gwalior in Claims Cases No.136/2011 and 137/2011 on account of inadequacy of compensation and seeking enhancement of compensation and



also being aggrieved from exonerating Insurance Company from its liability.

2. Since both aforesaid appeals are arising out of the common award dated 28.09.2012 passed by Sixth MACT, Gwalior in Claims Cases No.136/2011 and 137/201, therefore, they are heard analogously and disposed of by this common order.

3. As per findings of the Claims Tribunal, in the case of injuries sustained by appellants/claimants in the motor accident, an amount of compensation to the tune of Rs.47,000/- in M.A.No.1350/2012 and Rs.32,000/- in M.A.No.1365/2012 has been awarded by the Claims Tribunal with interest from filing of claim petition till its realization.

4. Learned counsel for the claimants filed this appeal on the ground that they are third party and at the time of accident, owner of the offending vehicle was not holding any valid permit. Therefore, it is a breach of policy. Claimants are a third party. So, according to the judgment passed by Hon'ble Supreme Court in the case of **Amrit Paul Singh vs. TATA AIG, General Insurance Company Ltd.** reported in 2019 (2) MPLJ (SC) 8, if claimants are third party, Insurance Company is liable to pay compensation firstly to the claimants and then, it may be recovered from the owner and driver of the offending vehicle. It is further submitted that Claims Tribunal has awarded compensation on the lower side. Hence, prayed for enhancement of compensation.

5. On the other hand, learned counsel for the Insurance Company in both appeals argued in support of the impugned award and contended that the Claims Tribunal has rightly awarded compensation amount in both claim



cases which do not call for any interference by this Court.

6. Heard learned counsel for the parties and perused the entire record.

7. After hearing learned counsel for the parties and on perusal of the entire record, it is an admitted fact that at the time of accident, offending bus has no valid and effective permit, which is a breach of terms and conditions of the Insurance Policy. It is undisputed that injured were a third party and Insurance Company takes premium for covering the risk of the third party. So, in light of the judgment passed by Hon'ble Apex Court in the case of **Amrit Paul (supra)** wherein it was held that the Insurance Company shall be liable to make payment of the compensation amount with liberty to recover the same from the owner. So, finding recorded by the Claims Tribunal with regard to totally exonerating the Insurance Company from its liability, is not correct in the eye of law and deserves to be modified and is hereby **set aside** and appeal is **partly allowed** to the extent that the Insurance Company shall pay the compensation to the claimant with liberty to recover the same from the owner and Driver of the offending vehicle.

8. Looking to the facts and circumstances of the case, more particularly the injuries sustained by claimants in the alleged accident, it would be appropriate to enhance to lump sum amount of Rs.1,00,000/- in M.A.No.1350/2012 and Rs.50,000/- in M.A.No.1365/2012.

9. Accordingly, present appeal is **allowed in part** to the extent indicated herein above. The amount of compensation is enhanced to lump sum amount of Rs.1,00,000/- in M.A.No.1350/2012 and Rs.50,000/- in M.A.No.1365/2012. The appellants are entitled to receive **Rs.1,00,000/-** in



M.A.No.1350/2012 and Rs.50,000/- in M.A.No.1365/2012 in addition to the amount already awarded by the Claims Tribunal. The enhanced amount shall carry interest as awarded by the Claims Tribunal from the date of the filing of the claim petition till its realization. All other findings recorded by the Claims Tribunal shall remain intact.

10. Owner of the offending vehicle is present before this Court today itself and undertakes to file surety before Claims Tribunal.

11. In view of the above, the owner of the offending vehicle is directed to file surety before the Claims Tribunal within a period of **one month** from today and deposit compensation amount as awarded by the Claims Tribunal, if the Insurance Company files the recovery proceedings against him.

12. The present appeals stand disposed of and let a copy of this order be kept in the file of connected **M.A.No.1365/2012**.

(HIRDESH)
JUDGE

AVI