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IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE HIRDESH

ON THE 16<sup>th</sup> OF OCTOBER, 2025

MISC. APPEAL No. 3018 of 2024

*LIBERTY GENERAL INSURANCE COMPANY LIMITED*

*Versus*

*SMT. GAMARA LEELU BEN AND OTHERS*

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Appearance:

Shri Ashok Kumar Agrawal - Advocate for the appellant/Insurance Company.

Shri Mudit Goswami-Advocate for respondent Nos. 1 to 3/claimants.  
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ORDER

This misc. appeal by the Insurance Company u/S. 173 of the Motor Vehicles Act, 1988 is arising out of the Award dated 06/12/2023 passed by V Motor Accident Claims Tribunal (in short "Claims Tribunal") Guna (M.P.) in MACC No.72/2021, whereby the Claims Tribunal has awarded compensation to the tune of Rs.10,04,000/- with interest in favour of claimants (respondents No. 1 and 3 herein) from the date of filing of claiming petition till its realization.

2. Brief facts of the case are that claimants/respondent No.1 to 3 filed the claim petition under Section 166 of the Motor Vehicles Act before the Tribunal with the averments that on 01.03.2020 deceased Khoda Bhai @ Gamara Khoda Bai was traveling in car bearing registration No. GJ 33 B 6321 from Gujarat to Gwalior with his relatives then the driver of the said car, by driving the car rashly and negligently, hit the car on a divider, due to which



the car turned turtle and the deceased suffered injuries in his head and body and died during treatment.

3. Appellant/Insurance Company and respondent No.4 of the offending vehicle filed their written statement and denied the averments. Appellant/Insurance Company in its reply specifically averred that the insured vehicle was being driven by the deceased and he had no driving licence, therefore, Insurance Company is not liable to pay any compensation in the case.

4. Tribunal after framing issues and taking evidence of both the parties, allowed the claim petition filed by the claimants.

5. Being dissatisfied with the impugned Award, the instant misc. appeal has been filed by Insurance Company with submissions that impugned Award is contrary to law and is also contrary to the facts and material available on record. The learned Tribunal has incorrectly decided issue Nos. 1, 3 to 6 framed in the case and has erred by not exonerating the appellant/Insurance company from payment of compensation to the claimants. The Claims Tribunal committed error by not properly appreciating the oral and documentary evidence adduced by the appellant/Insurance company. From the evidence adduced in the case, it is proved that deceased was driving the insured car and to obtain compensation wrongly implanted his brother-in-law/respondent no. 4 as driver of the insured car. Appellant insurance company has exhibited Panchnama- Ex. D-1 in which it is clearly mentioned that the deceased was driving the insured vehicle at the time of the accident but the Claims Tribunal has committed error in not relying on Ex. D-1 and has| wrongly held that the respondent no.4 was



driving the car. The Claims Tribunal has overlooked the fact that the deceased being driver of the insured car did not fall under the category of "third party", therefore, there was no statutory or contractual liability on the Insurance Company to indemnify the insured. It is further submitted that Claims Tribunal has not given sufficient opportunity to the Insurance Company to adduce its evidence. Alternatively, Insurance Company is seeking liberty to remand the case to the Claims Tribunal with direction to the Tribunal to give sufficient opportunity to Insurance Company to adduce its evidence and thereafter again decide claim case in accordance with law.

6. On the other hand, learned counsel for the claimants/respondent Nos. 1 to 3 supported the impugned Award and prayed for dismissal of this appeal.

7. Heard learned counsel for the parties and perused the impugned Award as well as record of the Claims Tribunal.

8. It is found that Police Station-Myana, District Guna (M.P.) registered Unnatural Death Intimation No. 17/2020, Under Section 174 of the Cr.P.C on 01/03/2020 (Ex.P.5). After enquiry, Police registered FIR at Crime No. 223/2020 for offence punishable under Sections 279, 337, 338 and 304-A of the IPC and thereafter filed charge sheet (Ex.P.1) against respondent No.4.

9. Counsel for Insurance Company submitted that he filed Panchnama (Ex.D.1) which is photo copy in which it is mentioned that deceased was driving offending vehicle at the time of accident but aforesaid



Panchnama (Ex.D.2) was not duly proved. Appellant/Insurance Company in support of his case, produced Ms. Priyanka Tiwari, ASI before the Tribunal as a witness but she denied that she prepared Panchnama (Ex.D.1).

10. Counsel for appellant/Insurance Company submitted that the Claims Tribunal has committed error overlooking Panchnama (Ex.D.1). But High Court of Punjab & Haryana in the case of **Dera Baba Bhauri Wala Vs Gaay Sewa Samiti (Regd.) & Ors** 2018 Supreme (P &H) 1922 has held that mere exhibition of a document is only for the purpose of identification of the document. A document filed by a party and exhibited by the Court do not become part of the original record at the time of its production, rather it become, the part of the record after its formal proof. The Hon'ble Apex Court has held in the case of **LIC of India and Anr. V. Ram Pal Singh Bisen**, 2010 AIR SCW 1900 has held that mere admission of document in evidence does not dispense with its proof and also in para Nos. 25 and 26 has held as under :-

"25. No doubt, it is true that failure to prove the defence does not amount to an admission, nor does it reverse or discharge the burden of proof of the plaintiff but still the duty cast on the defendants has to be discharged by adducing oral evidence, which the appellants have miserably failed to do. Appellants, even though a defaulting party, committed breach and failed to carry out a legislative imposition, then had still to convince this Court as to what was the just cause for doing the same. Thus, looking to the matter from any angle, it is fully established that the appellants had miserably failed to prove and establish their defence in the case.

26. We are of the firm opinion that mere admission of a document in evidence does not amount to its proof. In other words, mere marking of exhibit on a document does not dispense with its proof, which is required to be done in accordance with law. As has been mentioned hereinabove, despite perusal of the record, we have not been able to come to know as to under what circumstances the



respondent-plaintiff had admitted those documents. Even otherwise, his admission of those documents cannot carry the case of the appellants any further and much to the prejudice of the respondent."

11. In the present case, it is the duty of appellant/Insurance Company to prove document (Ex.D-1) according to law. In support of his case, appellant/Insurance Company adduced Ms. Priyanka Tiwari, ASI as a witness who stated that she had not prepared (Ex.D.1). Therefore, this document is not duly proved by documentary evidence which was required to be proved by appellant/Insurance Company under the provision of the Evidence Act, therefore, Insurance Company failed to do so. Therefore, mere marking of exhibit on document/Panchnama (Ex.D.1), it is not duly proved that deceased was driving the offending vehicle.

12. Counsel for appellant/Insurance Company also prayed for remanding the case and submitted that Claims Tribunal has not given amply opportunities to Insurance Company to adduce evidence. But perusal of ordersheets of the Tribunal, it is found that Claims Tribunal has given ample opportunity to appellant/Insurance Company to adduce evidence. From perusal of order sheet dated 27/10/2023, it is clear that Claims Tribunal given more than three opportunities to Insurance Company to adduce evidence. Therefore, argument of the appellant/Insurance Company is that Claims Tribunal has not given ample opportunities, has no substance.

13. In view of above discussion, it is found that Panchnama (Ex.D.1) was not duly proved and appellant/Insurance Company failed to prove that at the time of accident, deceased was driving the offending



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vehicle. Therefore, Tribunal has rightly passed the impugned Award by imposing liability upon the owner, driver and Insurance Company jointly and severally.

Accordingly, instant misc. appeal is hereby **dismissed**.

**(HIRDESH)**  
**JUDGE**

Prachi