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MA-4752-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE HIRDESH

ON THE 23rd OF FEBRUARY, 2026MISC. APPEAL No. 4752 of 2024*UNITED INDIA INSURANCE CO.LTD. OFFICE AT B.G. ROAD GUNA**Versus**DEEPMALA AND OTHERS*

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Appearance:

Shri Bal Krishna Agrawal - Advocate for the appellant.

Shri Rishikesh Bohare, learned counsel for the respondent Nos.3 and
5.

Shri Satyendra Singh Rajput, learned counsel for the respondent Nos.6
and 7.

Shri Vibhor Kumar Sahu, learned counsel for the respondent Nos.1, 2
and 4.

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ORDER

This appeal has been filed by the Insurance Company under Section 173(1) of the Motor Vehicles Act against the award dated 15.03.2024 passed by the Fourth Member, Motor Accident Claims Tribunal, District Guna (M.P.) in Claim Case No. 108/2023, seeking exoneration from its liability as well as reduction of the compensation amount awarded to the claimants.

2. Brief facts of the case are that respondents No. 1 to 5 preferred a claim application under Section 166 of the Motor Vehicles Act, seeking compensation of Rs. 1,00,00,000/- for the death of the deceased, Anil



(hereinafter referred to as 'the deceased'). The deceased died in a road traffic accident on 06-05-2023, allegedly involving a tractor bearing registration No. MP 08 AC 3149, which was attached to an uninsured trolley. On the fateful day, the tractor was insured with the appellant Insurance Company. The claimants submitted that the deceased was 29 years old at the time of the accident and was earning Rs. 50,000/- per month as a motor mechanic at a TVS Showroom.

3. Respondent Nos. 6 and 7 filed their written statements, and the appellant insurance company also opposed the claim application on the grounds that no accident occurred involving the vehicle as stated in the claim petition. The earnings and dependency of the claimants were also denied, and other defenses were raised, praying for dismissal of the claim petition.

4. The learned Claims Tribunal framed issues and, after appreciating the facts and the material on record, allowed the claim application, holding the claimants/respondents no. 1 to 5 entitled to a compensation of Rs. 44,93,000/- along with interest.

5. Being aggrieved by the impugned award, the Insurance Company has preferred this appeal, submitting that the award passed by the Claims Tribunal is contrary to the settled provisions of law and inconsistent with the facts, circumstances, and material on record. It is further submitted that the Claims Tribunal erred in not considering the legal aspect that the deceased was struck by the trolley, which was uninsured. It is contended that the Tribunal failed to consider the legal requirement that the trolley must be separately registered and insured. Since the trolley was not insured under the



policy, no liability can be fastened on the Insurance Company for an accident involving the uninsured trolley. Moreover, it is argued that when both the tractor and trolley are involved in an accident, both the tractor and the trailer must be insured in order to hold the Insurance Company liable. As such, the Insurance Company should not be held liable for the accident caused by the uninsured trolley, and the impugned award deserves to be set aside, exonerating the appellant Insurance Company. It is also submitted that the Claims Tribunal has assessed the income of the deceased as Rs. 20,000/- per month without any substantial evidence, and that the dependency has been assessed on a higher side. The Insurance Company further contends that, as per the judgment in *Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. (2009) 6 SCC 121*, personal expenses should be deducted at 1/3rd, not 1/4th, as assessed by the Claims Tribunal.

6. In support of their submission, counsel for the Insurance Company has placed reliance on the judgments of the Hon'ble Supreme Court in *Dhondubai vs. Hanmantappa Bandappa Gandigude thr. LRs., 2023 ACJ 1979*, and *IFFCO TOKIO GEN. INS. CO. LTD vs. Kumar Singh & Ors. , SLP No. CC 12585/2012*.

7. *Per contra*, counsel for the claimants supported the impugned award passed by the Claims Tribunal and prayed for dismissal of the instant appeal.

8. Heard the learned counsel for the parties and perused the record of the Claims Tribunal.

9. The first issue to be decided is whether the Insurance Company can be exonerated from liability on the grounds that the trolley attached to the



tractor was uninsured.

10. It is undisputed that the tractor bearing Registration No. MP 08 AC 3149 was attached to an uninsured trolley. The deceased got struck by the trolley while it was being reversed, resulting in his death. The tractor was insured, but the trolley was not.

11. As per Section 2(28) of the Motor Vehicles Act, a trolley is considered a vehicle and must be registered under Section 61 of the MV Act. Furthermore, Section 146 of the MV Act mandates that every vehicle, including a trolley, must be insured. In the present case, the tractor was insured, but the trolley was not. However, it is crucial to note that the accident occurred due to the tractor pulling the trolley, and it was the tractor's operation that led to the accident.

Section 2 (28) of Motor Vehicles Act is reads as under:-

(28) “motor vehicle” or “vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding 1 [twenty-five cubic centimetres];

Section 61 of the Motor Vehicles Act is reads as under:-

61. Application of Chapter to trailers.—(1) The provisions of this Chapter shall apply to the registration of trailers as they apply to the registration of any other motor vehicle.
(2) The registration mark assigned to a trailer shall be displayed in such manner on the side of the drawing vehicle, as may be prescribed by the Central Government.
(3) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed on the trailer or on the last trailer in the train, as the case may be, in such manner as may be prescribed



by the Central Government.

Section 146 of the Motor Vehicles Act is read as under:-

146. Necessity for insurance against third party risk.—(1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter:

[Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991 (6 of 1991).]

Explanation.—A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) Sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise.

(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely:—

(a) the Central Government or a State Government, if the vehicle is used for Government purposes connected with any commercial enterprise;

(b) any local authority;

(c) any State transport undertaking;

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties.

Explanation.—For the purposes of this sub-section, “appropriate Government” means the Central Government or a State Government, as the case may be, and—

(i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

(ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;

(iii) in relation to any other State transport undertaking or any local authority, means that Government which has control over that undertaking or authority."



12. But in the present case, vehicle involved in the accident was the tractor, which was insured. The trolley, although uninsured, was attached to the tractor, and it is not the case that the accident was solely caused by the trolley. The tractor's actions, including the reckless driving and reversing, were the proximate cause of the accident. Therefore, the liability of the tractor and its insurer extends to the accident caused by the tractor, even though the trolley was uninsured.

13. This Court is of the considered opinion that the Claims Tribunal rightly held the Insurance Company liable to pay compensation. The tractor, which was insured, played a direct role in the accident, and the insurer of the tractor is liable for the compensation despite the trolley being uninsured. No illegality or perversity has been committed by the Claims Tribunal in holding the Insurance Company liable.

14. In view of the above, the appeal filed by the Insurance Company is devoid of merit. Accordingly, the appeal is **dismissed** in regard to exoneration of Insurance company from its liability.

15. So far as contention of appellant/Insurance Company is concerned regarding quantum of compensation, it is submitted by appellant that the Claims Tribunal has committed error in assessing the income of the deceased- Anil to the tune of Rs.20,000/- per month without any substantial documents. It is further submitted that the claims tribunal has erred in deducting towards personal expenses i.e 1/4th. As per the judgment in *Sarla Verma (supra)*, 1/3rd of personal expenses must be deducted only.

16. On perusal of impugned Award it was found that claimants have



unable to adduced any substantial evidence in regard to the income of the deceased - Anil, but the Claims Tribunal has held that the deceased was a skilled labour and assumed his income to the tune of Rs.20,000/- per month. In the case of *Kirti and Another vs. Oriental Insurance Company Ltd. (2021) 2 SCC 166*, Hon'ble Apex Court has held that if claimant(s) are failed to produce any documentary evidence in regard to income of the deceased, but from statement of the witnesses, documentary evidence and circumstances of the accident, it is apparent that deceased was comparatively more educationally qualified and skilled, then his income shall be assessed on the basis of Minimum Wages Act.

17. In the present case, claimants are unable to adduce any substantial evidence in regard to the income of the deceased, but it was found that deceased was a skilled worker with an ITI qualification, and in the absence of evidence regarding his income, his earnings should be assessed as per the Minimum Wages Act for a skilled person, which amounts to **Rs. 11,885/- per month**. Therefore, the finding of the Claims Tribunal regarding the income of the deceased is set aside. In the considered opinion of this Court, for calculating the compensation, income of the deceased be assessed to the tune of **Rs. 11,885/- per month** as per Minimum Wages Act of a skilled person.

18. Further, so far as contention of appellant is concerned regarding deduction of personal expenses, the Claims Tribunal in para 55 of the impugned Award has held that wife, children and mother of the deceased were dependence upon the deceased. Thus, as per decision of the Apex Court in the case of *Sarla Verma (supra)*, 1/3rd deduction should be applied



towards personal expenses, but the Claims Tribunal has wrongly deducted 1/4th towards personal expenses, therefore, compensation must be assessed by deducting 1/3rd towards personal expenses. Hence, findings of the Claims Tribunal in this regard is also set aside.

19. Accordingly, the claimants are entitled to receive compensation under the following heads:-

HEAD	AMOUNT
Income	Rs.11,885 X12= Rs.1,42,620/- P.A.
Future Prospects@40%	Rs.1,99,668/-
Dependency 1/3	Rs.1,33,112/-
Multiplier 17	Rs.22,62,904/-
Other Heads:-	
Loss of Consortium	Rs.44,000 X 4= Rs.1,76,000/-
Loss of Estate and funeral expenses	Rs.33,000/-

Total = Rs.24,71,904/-

20. Thus, the just and proper amount of compensation payable in the present case comes to **Rs.24,71,904/-** as against the sum of Rs.44,93,000/- awarded by the learned Claims Tribunal. Accordingly, the compensation amount is reduced from **Rs.44,93,000/-** to **Rs.24,71,904/-**. The aforesaid reduced amount shall also bear interest as awarded by the Claims Tribunal from the date of the filing of the claim petition till its realization. Insurance Company is entitled to get excessive amount (if already deposited) from the Claims Tribunal in accordance with law.

21. In the result, the instant appeal filed by the Insurance Company is **partly allowed** and **stands disposed of** to the extent indicated herein-above.



**(HIRDESH)
JUDGE**

VJ