

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ON THE 2<sup>nd</sup> OF SEPTEMBER, 2025

MISC. APPEAL No. 1573 of 2015

*SHRIRAM GENERAL INSURANCE CO.LTD.*

*Versus*

*MANGU KHAN AND OTHERS*

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Appearance:

Shri Pankaj Kumar Jain, learned counsel for the appellant.

Shri Sameer Saxena, learned counsel for the respondent [R-7].

Shri Manish Kumar Vijaywargiya, learned counsel for the respondent  
[R-3].

.....  
WITH

MISC. APPEAL No. 2294 of 2015

*IQRAR KHAN AND OTHERS*

*Versus*

*MANGU KHAN AND OTHERS*

.....  
Appearance:

Shri Sameer Saxena, learned counsel for the appellant.

Shri Pankaj Kumar Jain, learned counsel for the  
respondent/insurance company.

Shri Manish Kumar Vijaywargiya, learned counsel for the  
respondent.

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ORDER

Both the appeals have been filed against the award dated 23.06.2005

passed by the claims tribunal in claims case No.32/2013.

2. M.A. No.1573/2015 has been filed by the insurance company against the quantum of compensation as well as against the direction for pay and recover and owner has filed MA No.2294/2015 against the direction to the extent that the insurance company may recover the compensation from owner after its payment to the claimant.

3. The short facts relevant to the dispute are that on 05.05.2011 the deceased Imaami Khan had taken truck No.MP09-KA-9401 to Gangahotri Soyabean Plant, Pachore for loading 'Choori'. He parked his truck according to his number at godown of the said Plant. When he was going outside of the gate between 3 to 4 O' clock in the after noon, before he could have completed 3-4 steps, respondent No.1 reversed his truck No.MP11-A-5157 without there being any indication or horn because of which Imaami Khan came under the rear tyre of the said truck. He sustained grievous injuries. He was rushed to government hospital, Pachore from where he was referred to Bhopal and while on the way to Bhopal he died. An F.I.R. was lodged at Crime No.56/2011 at police station-Karanwas under Sections 279, 338 and 304 A of IPC.

4. The claimants/respondent Nos.1 to 5 filed claim petition under Section 166 of the Motor Vehicles Act claiming compensation for the death of Imaami Khan. The claims tribunal after considering the evidence on record concluded that the truck was being operated without permit, thus, there was breach of conditions of insurance policy, hence, though the insurance company was exonerated from its liability of payment of compensation,

however, a direction for pay and recover from owner was given. The claims tribunal assessed the total compensation at Rs.10,55,500/-.

5. Learned counsel for the insurance company submits that this is found by the claims tribunal in terms of findings recorded from para 33 to 39 that the insured offending vehicle was being plied without a valid permit and thus, concluded that the insurance company was not liable to pay compensation still direction was given to first pay the amount of compensation to the claimants and then recover the same from owner/driver. He submits that this direction could not have been given by the insurance company in view of the clear findings recorded in para Nos.33 to 39.

6. Apart from this, learned counsel for the insurance company refers to the findings recorded by the claims tribunal in para 43 of the impugned award and submits that claims tribunal has referred to driving license of the deceased as Ex.P-13 in which his date-of-birth was mentioned as 15.04.1975 still it went on to rely on the postmortem report Ex.P-10 in which the age of the deceased is mentioned as 30 years. He submits that as per the driving licence on the date of the accident the deceased would have been 36 years of age. He thus submits that if his age is corrected from 30 to 36 then multiplier would change from 17 to 15 and consequentially, the compensation would be reduced. He, thus, prays for allowing the appeal to the extent of these two grounds.

7. Learned counsel for the owner in the connected appeal, on the other hand, contends that though it is correct that the claims tribunal recorded the findings in para 33 to 39 that the offending insured vehicle was not having a

valid permit still the insurance company should be made liable to pay compensation in view of the fact that the accident occurred in a private place. For operating a vehicle in a private place, there is no need of permit, thus, there was no breach of insurance policy. In support of his submission, learned counsel for the owner placed reliance upon the judgment of Jurisdictional High Court of Kerala in the case of **Taxi Drivers' Union and another Vs. Kerala State Road Transport Corporation and others (O.P. No.2400 of 1981)**.

8. Per contra, learned counsel for the claimants/respondent Nos.1 to 5 submits that the claims tribunal has not only rightly assessed the income of the deceased but his age has also been considered properly. He points out that the driving licence was not submitted before the claims tribunal as age proof and points out towards the fact that the witness of the insurance company Anoop Pandey did not dispute the evidence placed by the claimants on record and has not raised any dispute about the age of the deceased as 30 years as such no interference in this regard is warranted in this case.

9. Learned counsel for the claimants further submits that the claims tribunal has correctly directed for pay an recover for which he has placed reliance on the decision of the Hon'ble Apex Court in the case of **Pappu and others Vs. Vinod Kumar Lamba and another, AIR 2018 SC 592**.

10. In his rejoinder submission, learned counsel for the insurance company placed reliance on the judgment of the Division Bench of this Court in the case of **Rajendra Singh Vs. Tulsabai and others, 2004 ACJ 1898**, thereby pointing out that in similar circumstances the factory premises

was considered as public place.

11. Heard the learned counsel for the parties and perused the record.

12. In the present case, the main dispute is with respect to nature of the place where the accident occurred whether it was a public place or a private place. It would be apposite to quote the definition of public place as provided under the provisions of the Motor Vehicles Act, 1988. Section 2 (34) of the said Act provides the definition of the public place as under:-

*"2(34) 'public place' means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a state carriage."*

13. The question whether the place is public place or private place was considered by the two Division Benches of this Court in the case of **Rajendra Singh (supra)** and in the case of **Smt. Hirabai and others Vs. Pratap Singh and another**, 2006 SCC OnLine MP 424. Both the Division Benches after considering the definition as provided under the old act and various case laws on the point held that public place would mean a place where public have right to access. It was clarified that mere fact that the compound or campus of the premise is owned by any individual would not make it a private place. It is not necessary that the place must be public property for being a public place. Even a private property can also be treated as a public place for the purpose of Motor Vehicles Act.

14. In the case of **Hirabai (supra)**, the Hon'ble Division Bench concluded that the agricultural field of private person would be considered as a public place for the purpose of the Motor Vehicles Act. Similarly, in the case

o f **Rajendra Singh (supra)**, the campus of Diamond Cement Factory at Damoh was treated as public place. The Court in the said case clarified that the definition of public place under the Act is wide enough to include any place which members of public use and to which they have a right of access. The right of access may be permissive, limited, regulated or restricted by oral or written permission by tickets, passes wages or on payment of fee. It is thus clear that the term 'public place' as used in the Motor Vehicles Act is not only inclusive but is having a wide connotation.

15. In the present case, the factory premises was frequented by trucks for loading-unloading the goods as such the findings of the claims tribunal to the effect that the place in question was a public place is hereby affirmed.

16. As regards the question of quantum of compensation, it is clearly recorded by the claims tribunal that the insurance company did not dispute the evidence of claimants regarding age in terms of para 43 of the award. On bare perusal of the record, no perversity is found in such finding of the claims tribunal, hence, on the question of age also the finding of the claims tribunal are affirmed.

17. As regards the direction for pay and recover, the claims tribunal has very pertinently observed in para 60 of the award that as the offending insured vehicle was insured with the respondent No.3/appellant-insurance company and as the deceased is a third party, the insurance company first shall pay and then recover from the owner/driver. This is clearly the view of the Hon'ble Apex court as pointed by the counsel for claimants in the case of **Pappu (supra)**, thus, on this count also no interference in the findings and

directions of the claims tribunal is warranted.

18. In view of the above directions, both the appeals fail and are hereby dismissed. No orders as to costs.

**(PAVAN KUMAR DWIVEDI)**  
**JUDGE**

N.R.