

1  
**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE HIRDESH**

**ON THE 12<sup>th</sup> OF MARCH, 2024**

**MISC. APPEAL No. 6473 of 2019**

**BETWEEN:-**

**SHRIRAM GENERAL INSURANCE CO. LTD. LEGAL  
OFFICER 101, 102, ANMOL SPACE , 3RD FLOOR, 21  
KHAJRANA MAIN ROAD, BAIKUNTH DHAM, INDORE  
(MADHYA PRADESH)**

**.....APPELLANT**

***(BY MS. DEEPIKA RATHI - ADVOCATE)***

**AND**

- 1. SAUDRABAI W/O SOUJI BANJARA, AGED ABOUT  
44 YEARS, OCCUPATION: AGRICULTURIST  
VILLAGE NAVADA, TEHSIL NAGDA, (MADHYA  
PRADESH)**
- 2. BANESINGH S/O RATANLAL BANJARA, AGED  
ABOUT 38 YEARS, VILLAGE NAVADA TEH. NAGDA  
DIST. UJJAIN (MADHYA PRADESH)**
- 3. MOHANLAL S/O MOTIRAM CHAMAR, AGED  
ABOUT 55 YEARS, OCCUPATION: DRIVER  
PADALYAKALAM TEH. NAGDA DIST. UJJAIN  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(SHRI HARSHWARDHAN SINGH RATHORE - ADVOCATE FOR  
RESPONDENT NO.1)***

.....  
*This appeal coming on for hearing this day, the court passed the  
following:*

**ORDER**

This appeal by the Insurance Company under section 173(1) of the  
Motor Vehicles Act is arising out of the award dated 29.08.2019 passed by

Additional Member MACT, Nagda, District Ujjain in MACC No.01/2018 on account of exonerating the liability of the Insurance Company.

2. The brief facts of the case is that on 27.08.2017 deceased was travelling in Mahendra Pickup vehicle bearing registration no.M-13-GA/5004 as cleaner. The driver of the offending vehicle driving the vehicle rashly and negligently due to which the door of the vehicle suddenly opened and the deceased fell down from the vehicle and during treatment, he was declared dead. A claim petition was filed by the legal heirs of the deceased and pleaded that he was travelling in the offending vehicle as cleaner and seeking compensation against Insurance Company, owner and driver of the offending vehicle.

3. The owner, driver and the Insurance Company filed written statement before the Tribunal and the Tribunal framed issued and after recording the evidence of the parties, awarded compensation of Rs. 5,70,000/- along with interest from the date of filing of the claim petition till realization.

4. The Insurance Company being aggrieved by the impugned award filed this appeal on the ground that at the time of accident the deceased was travelling as gratuitous passenger in the goods vehicle and Insurance Company is not liable to pay compensation because no premium was taken by the Insurance Company of the cleaner and additional person travelling in the offending vehicle.

5. On the other hand, learned counsel for the claimant argued in support of the impugned award and prays for rejection of the appeal.

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

7. After hearing learned counsel for the parties and going through the record, it is found that Tribunal gave finding in this regard in para 19 of the

award as per the liability premium of one person one more person is covered. Hence, Insurance Company has taken premium of two persons, hence liable to pay compensation. In this regard, perusal of the Insurance Policy D-1 it is clear that Insurance Company took premium basic TP Cover as Rs.14,390/-, GR36A-PA for owner driver as Rs.100/-, LL to Paid driver Rs.50/- and Total TP Rs.14,540/-. It means Insurance Company took premium for third party and premium for owner and driver. Owner driver means a owner who owes driver and take additional premium for paid driver one count. It means that Insurance company had not taken any premium for cleaner. So perusal of the Insurance policy it is clear that Insurance Company has not taken premium for cleaner. So when Insurance Company has not taken the premium for cleaner, it is clearly established that deceased was travelling as gratuitous passenger in the offending vehicle. He was neither a third party nor deceased was driver and it is proved that Insurance Company has not taken extra premium for cleaner. So Insurance Company is not liable to pay compensation.

8. In view of the aforesaid discussions in the considered opinion of this Court, the present appeal deserves to be and is hereby allowed. The impugned award is set aside to the extent that Insurance Company is exonerated from the liability to pay compensation.

**(HIRDESH)  
JUDGE**