

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 9669 OF 2024

RAMA BAI

....APPELLANT (S)

VERSUS

**M/S AMIT MINERALS
THROUGH INCHARGE OFFICER/
COMPETENT OFFICER & ANRS.**

....RESPONDENT(S)

JUDGEMENT

N.V. ANJARIA, J.

Preferred by the appellant-claimants, the present Appeal is directed against judgment and award dated 11.06.2020 of the High Court of Chhattisgarh, Bilaspur in M.A. (C) No. 876 of 2013, whereby the High Court enhanced the compensation payable to the appellant-claimant and absolved respondent No. 3 –

Insurance Company from the liability to pay the amount, fastening the same on respondent Nos. 1 and 2 – driver and the owner respectively.

2. The case and grievance of the appellant is that the High Court ought to have applied the doctrine of “pay and recover” requiring the Insurance Company to satisfy the amount of compensation to the claimant and subsequently allow the Insurance Company to recover the amount in accordance with law.

2.1 In support of the plea that principle of ‘pay and recover’ should have been applied, the appellant pressed into service the decisions of this Court in ***Shamanna and Another v. Divisional Manager, Oriental Insurance Company Limited and others***¹ and in ***Parminder Singh v. New India Assurance Company Limited and Others***².

3. The appellant happens to be the mother of one Nand Kumar who died in a vehicular accident that

¹ [(2018) 9 SCC 650]

² [(2019) 7 SCC 217]

occurred on 13.10.2011. A truck bearing registration No. CG-04-J-1233 driven by respondent No. 1 met with an accident with a tractor-trolley, tractor bearing separate registration No.CG-04-DM-9357. The said Nand Kumar was a conductor in the truck who died succumbing to injuries suffered in the accident.

3.1 The 2nd Additional Motor Accident Claims Tribunal, Raipur, Chhattisgarh in Claim Case No.64 of 2012 instituted by the parents of the deceased awarded compensation of Rs.3 Lakhs by applying the relevant parameters for determination of compensation. The compensation amount was ordered to be deposited by respondent Nos. 1 and 2 – driver and the owner and to be disbursed in accordance with the directions issued. It was found that respondent No.1–Driver was not holding a valid licence on 13.10.2011 which was the date of the accident.

3.2 In the appeal preferred by the appellant before the High Court, the amount of compensation was enhanced, assessing it under different heads, totalling to Rs.5,33,600/- instead of Rs.3 Lakhs awarded by the

Tribunal, with interest at the rate of 7% per annum from the date of the filing of the claim application till the realisation. While enhancing the compensation, the High Court fastened the liability to pay the amount on the respondent No. 1 – driver and respondent No. 2 – owner holding that respondent No. 3 – Insurance Company was entitled in law to avoid the liability.

3.3 The aforesaid conclusion reached by the High Court, concurring with what was held by the Accidents Claim Tribunal on the said issue, was arrived at on the basis that respondent No.1 Paras Satnami–driver’s driving licence No. CG.04/2002/0006140, issued from the Regional Transport Office, for driving the transport vehicle was not valid from 20.06.2010 to 02.11.2011 as the validity of the license had expired on 20.06.2010 and only renewed from 03.11.2011 to 02.11.2014. The accident took place on 13.10.2011.

3.4 In other words, on the date of the accident a valid licence was not held by respondent No. 2 – driver. Therefore, it was not legally permissible for him to drive

the vehicle on the date of accident. The factum that there was no driving licence on 03.10.2011 was proved from the Insurance Document (Ex. D-1C) and the Driving Licence (Ex. D-2C). Thus, the driver of the offending vehicle was found not to have a valid license on the date of accident.

3.5 While endorsing to the view of the Tribunal that there was no valid license of the driver on the date of accident which would render the insurance company not liable to pay the compensation, the High Court referred to the relevant provisions of the Motor Vehicles Act, including Section 15 which prescribes for “Renewal of Driving Licences”. The High Court proceeded to rely on the decision of this Court in ***Ram Babu Tiwari v. United India Insurance Company Limited and Others***³ and other decisions.

3.6 The following specific findings extracted below were recorded by the High Court in Paragraph 16 of its judgment,

"In view of aforementioned specific provisions of M.V. Act and authoritative

³ [(2008) 8 SCC 165]

pronouncement of Hon'ble Supreme Court as well as the facts and circumstances of the case at hand where the license of respondent No. 1 was not renewed from 20.06.2010 to 02.11.2011 and the accident took place on 13.10.2011, we do not find any error in the finding recorded by the learned Claims Tribunal that on the date of accident, respondent No.1 was not possessing valid and effective driving license leading to breach of conditions of insurance policy and exonerating the Insurance Company from its liability.”

4. Heard learned advocate Mr. Kaustubh Shukla for the appellant and learned advocate Mr. Gopal Singh for the respondent- Insurance Company.

5. The submission on part of the appellant that the High Court ought to have applied the “pay and recover” principle rests on the decision of this Court in **Shamanna**¹ (supra) and **Parminder Singh**² (supra). In **Shamanna**¹ (supra) this Court dealt with the claim of compensation by third party victim of the motor accident. In para 5 of the judgment, this Court referred to its own earlier decision in **National Insurance Co. Ltd. v. Swaran Singh and Others**⁴ to reiterate that the insurer

⁴ [(2004) 3 SCC 297]

has to pay the compensation amount payable to the third party and the insurance company may recover the same thereafter from the insured.

5.1 In ***Shamanna***¹ in which the doctrine of “pay and recover” was considered, the driver had no valid licence and the insurance policy was violated. Similar principle, as applied in ***Parminder Singh***² in which the driver of the offending vehicle was found driving the vehicle in breach of the policy conditions, the insurance company was absolved and the principle of ‘pay and recover’ was applied.

5.2 It was pointed out on behalf of respondent No. 3 - Insurance Company that in subsequent decision in ***National Insurance Company Limited v. Parvathneni and Another***⁵, this Court doubted the justification of applying the principle of pay and recover on the ground that if the Insurance Company was found not liable in law to pay the compensation, the direction

⁵ [(2009) 8 SCC 785]

regarding pay and recover can be said to be beyond the legal propriety.

5.2.1 In the earlier decisions in ***National Insurance Co. Ltd. v. Yellamma***⁶, ***Samundra Devi v. Narendra Kaur***⁷, ***Oriental Insurance Co. Ltd. v. Brij Mohan***⁸ and ***New India Insurance Co. v. Darshana Devi***⁹ this Court had applied the very principle, about the correctness of which, reservations were expressed in ***Parvathneni***⁵.

5.2.2 However, as found in ***Shamanna***¹ the reference was not answered and the case was disposed of on 17.09.2013, keeping the question of law open to be decided in an appropriate case.

6. In the present case as stated above, on the date of accident, the driver had no valid license and the licence was not renewed. The insurance company was entitled to take a valid defence in that regard under Section 149

⁶ (2008) 7 SCC 526

⁷ (2008) 9 SCC 100

⁸ (2007) 7 SCC 56

⁹ (2008) 7 SCC 416

(2)(a)(ii) as the driver of the offending vehicle was not duly licensed, to avoid its liability to pay the compensation. The conditions in law are satisfied to absolve the insurance company from the payment of compensation.

6.1 The High Court in the impugned judgment relied upon the decision in ***Ram Babu Tiwari***³ to find that as per the specific provisions of the Motor Vehicles Act, if the driver does not possess a valid and effective driving licence, it results in a breach of conditions of the insurance policy, exonerating the insurer from its liability. But while affirming the order of the High Court, absolving the liability for breach of conditions in the policy, this Court refused to interfere with orders of ‘pay and recover’ as directed by the High Court.

7. In the above circumstances, going by the series of decisions of this Court, it is only proper that the insurer be directed to satisfy the award, which however can be recovered by the insurer from the insured-owner of the vehicle. The appeal stands allowed.

Pending application, if any, shall stand disposed of.

..... J.
K. VINOD CHANDRAN

..... J.
N.V. ANJARIA

NEW DELHI;
September 24, 2025