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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1144 of 2016

Judgment Reserved on : 13/02/2026

Judgment Delivered on : 20/02/2026

Shri Ram General Insurance Company Ltd. Through Branch Manager / Branch Office Shri Ram Heights, Amanaka Tatibandh, Raipur, District-Raipur, Chhattisgarh.....Insurer of Truck CG-18-H-0542,

--- **Appellant**

versus

1 - Smt Sukdi W/o Late Kohrami Jaggu, Aged About 38 Years,
2 - Koso, S/o Jaggu, Aged About 20 Years,
3 - Baman, S/o Jaggu, Aged About 14 Years,
4 - Arvind, S/o Jaggu, Aged About 12 Years,
All are R/o Gram- Kilapal Pendapara, Tehsil- Bastanar, District - Jagdalpur, Chhattisgarh.
Respondent No.3 & 4 are minor through Respondent No.1
5 - Neharlal Sahu, S/o Late Kumar Sahu, Aged About 20 Years, R/o- Main Market Kirandul, Tahsil and Thana- Kiranul, District- Dantewara, Chhattisgarh,.....Driver of Truck C.G.-18-H-0542,
6 - Ram Kumar Soni, S/o Raj Kumar Soni, R/o- Rajkumar Tent House Market Main Road Bachali, Tahsil- Bachali, Zila- Dantewara, Chhattisgarh,....Owner of Truck C.G.-18-H-0542,

--- **Respondents**

AND

MAC No. 1142 of 2016

Shri Ram General Insurance Company Ltd. Through Branch Manager / Branch Office Shri Ram Heights, Amanaka Tatibandh, Raipur, District-Raipur, Chhatisgarh,.....Insurer of Truck CG-18- H-0542.

---**Appellant**

Versus

1 - Smt. Sukdi W/o Late Kohrami Jaggu, Aged About 38 Years,
2 - Baman, S/o Jaggu, Aged About 14 Years,
3 - Arvind, S/o Jaggu, Aged About 12 Years,

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All are R/o Gram- Kilapal Pendapara, Tehsil- Bastanar, District- Jagdalpur, Chhattisgarh,.....Claimants.,
Respondent No.2 and 3 are minor through Respondent No.1.
4 - Neharlal Sahu, S/o Late Kumar Sahu, Aged About 20 Years, R/o- Main Market Kirandul, Tahsil And Thana- Kiranul, District- Dantewara, Chhattisgarh,.....Driver of Truck C.G.-18-H-0542,
5 - Ram Kumar Soni, S/o Raj Kumar Soni, R/o- Rajkumar Tent House Market Main Road Bachali, Tahsil- Bachali, Zila- Dantewara, Chhattisgarh,....Owner of Truck C.G.18-H-0542,

--- **Respondents**

For Appellant	:	Mr. Deepak Gupta and Mr. Raghvendra Verma, Advocates
(MAC No.1144/2016) For Respondent No.1 to 4	:	Mr. Vikash A. Shrivastava, Advocate
(MAC No.1142/2016) For Respondent No.1 to 3	:	Mr. Vikash A. Shrivastava, Advocate
(MAC No.1144/2016) For Respondent No.5 & 6	:	None
(MAC No.1142/2016) For Respondent No.4 & 5	:	None

Hon'ble Shri Justice Radhakishan Agrawal

CAV Judgment

1. These two appeals have been preferred by the appellant–Insurance Company under Section 173 of the Motor Vehicles Act, 1988, calling in question the common award dated 26.04.2016 passed by the First Additional Motor Accident Claims Tribunal, Bastar at Jagdalpur, Chhattisgarh, in Claim Case Nos. 62/2014 and 63/2014, whereby compensation of Rs. 3,59,000/- and Rs. 4,29,000/- respectively, along with interest @ 9% per annum from the date of application till realization, has been awarded in favour of the claimants and the liability has been fastened upon the present appellant/insurance company. Since both appeals arise out of the same accident, involve identical questions of law and fact, and challenge the award only on

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the point of liability of the insurer, they are being decided by this common judgment.

2. As per the averments made in the claim petitions, on the intervening night of 30.04.2012 at about 12:00 midnight, the deceased persons, namely, Kohrami Jaggu and Kohrami Chaitu, were proceeding with their bullock cart near Village Dilmili Dega Aamapara on N.H.-16 road. At that time, the offending truck bearing Registration No. CG-18 H-0542 (hereinafter referred to as "the offending vehicle"), coming from Jagdalpur towards Dantewada, was being driven by Non-Applicant No.1, Neharlal Sahu, in a rash and negligent manner, and dashed against the bullock cart from behind. Due to the forceful impact, both Kohrami Jaggu and Kohrami Chaitu sustained fatal injuries and died on the spot, and two bullocks also died at the place of occurrence. At the time of the accident, the offending vehicle was owned by Non-Applicant No.2, Ram Kumar Soni, and was insured with Non-Applicant No.3, the Insurance Company.

3. On account of death of deceased persons, a claim petitions were filed by the respective claimants under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs.15,25,000/- and Rs.21,50,000/- respectively under various heads. However, the learned Tribunal vide common award dated 26.04.2016, awarded a compensation as mentioned in paragraph 1 of this judgment while making the appellant – insurer liable for payment of compensation. Hence, these appeals.

4. Learned counsel appearing for the appellant–Insurance Company submit that the learned Claims Tribunal has erred in fastening liability upon the appellant–Insurance Company without properly appreciating

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the evidence available on record. It is further submitted that although an insurance policy was issued in respect of the offending vehicle for the period from 29.04.2012 to 28.04.2013, but the premium was paid through a cheque which was subsequently dishonoured. Consequently, the policy stood cancelled. In this regard, a notice/intimation of cancellation was also sent to the owner of the vehicle by registered post on 07.05.2012. Therefore, the offending vehicle was not covered under a valid insurance policy on the date of the accident. As such, the Insurance Company cannot be held liable to indemnify the claimants or to satisfy the award. In the alternative, it is submitted that if this Court comes to the conclusion that the Insurance Company is liable to pay the compensation, then, in such circumstances, an order of "pay and recover" may be passed.

5. Learned counsel for the Claimants while admitting that no separate appeal has been filed by them for enhancement of compensation, supported the impugned award and submitted that the learned claims Tribunal, after appreciation of the evidence, has rightly awarded the compensation.

6. Heard learned counsel for the parties and perused the material available on record.

7. In support of its defence, the appellant – insurance company examined NAW-1 Punit Rathore, Law Officer who deposed that the offending vehicle, owned by Ram Kumar Soni, was insured with their Company on the basis of a premium paid through Cheque No. 013999 dated 30.04.2012 drawn on the State Bank of India. Against the said cheque, the Company issued Insurance Policy No. 10004/31/13/004095 covering the period from 29.04.2012 to 28.04.2013. He further stated

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that when the alleged cheque was presented for encashment, it was returned dishonoured by the concerned bank with the endorsement “insufficient funds.” According to him, as the premium amount was not realized, the Company cancelled the aforesaid insurance policy from the date of its issuance and intimated such cancellation by registered post to the vehicle owner as well as to the concerned R.T.O. office.

As against this, in cross-examination, he admitted that after the alleged cheque was dishonoured, the Insurance Company had sent an intimation regarding cancellation of the insurance policy to the vehicle owner by registered post on 07.05.2012; however, he further admitted that the acknowledgment receipt of the said registered post has not been filed on record. He also admitted that no proceedings were initiated by the Insurance Company against the vehicle owner in respect of dishonour of the alleged cheque issued towards payment of premium. He also admitted that in the notice allegedly sent for cancellation of the policy, the effective date from which the insurance policy was cancelled has not been mentioned. He also admitted that neither the original nor a photocopy of the dishonoured cheque has been filed in the case, and that the alleged cheque status document does not mention the name of the vehicle owner or his account number. These admissions materially weaken the defence raised by the Insurance Company.

8. The Hon’ble Supreme Court in the matter of United India Insurance Company Limited Vs. Laxmamma and Others, reported in (2012) 5 SCC 234 has held in paragraphs 26, 27 and 28 which read as under:

> “26. In our view, the legal position is this: where the policy of insurance is issued by an authorised insurer on receipt of

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> cheque towards the payment of premium and such a cheque is returned dishonoured, the liability of the authorised insurer to indemnify the third parties in respect of the liability which that policy covered subsists and it has to satisfy the award of compensation by reason of the provisions of Sections 147(5) and 149(1) of the MV Act unless the policy of insurance is cancelled by the authorised insurer and intimation of such cancellation has reached the insured before the accident. In other words, where the policy of insurance is issued by an authorised insurer to cover a vehicle on receipt of the cheque paid towards premium and the cheque gets dishonoured and before the accident of the vehicle occurs, such insurance company cancels the policy of insurance and sends intimation thereof to the owner, the insurance company's liability to indemnify the third parties which that policy covered ceases and the insurance company is not liable to satisfy awards of compensation in respect thereof.
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> 27. Having regard to the above legal position, insofar as the facts of the present case are concerned, the owner of the bus obtained the policy of insurance from the insurer for the period 16-4-2004 to 15-4-2005 for which premium was paid through cheque on 14-4-2004. The accident occurred on 11-5-2004. It was only thereafter that the insurer cancelled the insurance policy by communication dated 13-5-2004 on the ground of dishonour of cheque which was received by the owner of the vehicle on 21-5-2004. The cancellation of policy having been done by the insurer after the accident, the insurer became liable to satisfy the award of compensation passed in favour of the claimants.
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> 28. In view of the above, the judgment of the High Court impugned in the appeal does not call for any interference. The civil appeal is dismissed. However, the insurer shall be at liberty to prosecute its remedy to recover the amount paid to the claimants from the insured. No order as to costs."

9. Applying the aforesaid principle to the facts of the present case, it is evident that the insurance policy was effective from 29.04.2012 and the accident occurred during the subsistence of the policy. There is no cogent and clinching evidence on record to show that the insurance policy was cancelled by the appellant-Insurance company prior to the accident or that any intimation of cancellation had reached the

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insured/owner of the offending vehicle before the occurrence of the accident. The claimants are third parties and their statutory right to claim compensation cannot be defeated. Further, the owner and driver of the offending vehicle neither examined themselves nor led any evidence on their behalf to establish that the cheque was duly honoured. The burden to establish valid cancellation of the insurance policy prior to the date of the accident lies upon the Insurance Company. However, from the evidence discussed hereinabove, it appears that the notice of cancellation of the insurance policy was issued by the Insurance Company only after the accident and that the alleged cheque towards payment of premium was dishonoured.

10. In view of the aforesaid discussion, the appeals are allowed in part and the award dated 26.04.2016 passed by the First Additional Motor Accident Claims Tribunal in Claim Case Nos. 62/2014 and 63/2014 are hereby modified and in the facts and circumstances of the case, it is directed that the appellant–Insurance Company shall first satisfy the awarded amounts along with accrued interest, within a period of eight weeks to the claimants, then recover the same from the insured/owner of the offending vehicle.

Sd/-
(Radhakishan Agrawal)
JUDGE

Prakash