# Icici Lombard General Insurance Co. Ltd vs Rajani Sahoo on 2 January, 2025

## Author: C.T. Ravikumar

## Bench: C.T. Ravikumar

2025 INSC 6

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
Civil Appeal No. of 2025
(@ SLP (C) No. 29302 of 2019)

ICICI Lombard General Insurance Co. Ltd.

…Appellant(s)

Versus

Rajani Sahoo & Ors.

…Respondent(s)

JUDGMENT

C.T. RAVIKUMAR, J.

1. Leave granted.

2. The insurer of the vehicle bearing Registration No. OR-04-D-5675, held as the offending vehicle, filed the captioned appeal against the judgment dated 07.02.2018 passed by the High Court of Orissa, at Cuttack in MACA No.627 of 2016 dismissing the appeal filed against the award dated 07.05.2016 passed by the Motor Accidents Claims Tribunal, Nayagarh, in MAC No.57 of 2009. The claim petition was filed by the respondents herein seeking compensation for the death of one Udayanath Sahoo who succumbed to the injuries sustained in a Date: 2025.01.02 16:40:40 IST Reason:

> motor vehicle accident involving the motorcycle, being driven by him and the vehicle insured with the appellant. The aforesaid offending vehicle dashed against the rear side of the motorcycle ridden by the deceased Udayanath Sahoo when he was going to Bahadajhola at about 01.10 pm on 27.04.2019. Consequent to the hit, the motorcycle dashed against a tree standing by the road and Udayanath Sahoo succumbed to the injuries sustained and the pillion got severely injured. In connection with the

> accident, FIR No.61/2009 was registered at Police Station Sarankul. The legal heirs of deceased Udayanath Sahoo, the respondents herein filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 (for short, the MV Act) claiming compensation of 10,50,000/-. The appellant was the second respondent therein. On appreciating the evidence consisting both oral and documentary, the Tribunal passed an award for 6,77,164/- along with the interest at the rate of 7% per annum from the date of filing of the claim petition till the actual payment.

3. Feeling aggrieved by the award passed by the Tribunal contending that the accident had occurred solely on account of the rash and negligent driving on the part of the deceased and not at all due to the rash and negligent driving of the driver of the truck, which was insured with the appellant and further that the Tribunal had erred in relying on the FIR and the other records, the appeal bearing No. MACA No.627/2016 was filed by the appellant herein, which was dismissed by the High Court as per the impugned judgment. Hence, this appeal.

4. Heard the learned counsel for the appellant as also the learned counsel appearing for the respondents.

5. For understanding the case of the appellant, it is only appropriate to refer to the operative portion of the impugned judgment which reads thus:-

> "On a perusal of the impugned award it is seen that the learned Tribunal has taken into consideration the evidence available on record, both oral and documentary, including the police papers such as, F.I.R. (Exts. 1 and 2), Final Form (Ext. 3) and the evidence of eye-witness (P.W. 2), in coming to hold that the driver of the offending truck no. OR-04-D/5675 was rash and negligent in causing the accident, which resulted in the death of Udayanath Sahoo, the rider of the motorcycle.
>
> There is no dispute that in the Final Form submitted by the police after investigation, the accused driver of the offending Truck has been found to be guilty of rash and negligent driving, which resulted in the death of Udayanath Sahoo, the rider of the motorcycle no. OR-205/2229. Therefore, the impugned findings of the learned Tribunal cannot be faulted."

6. The core contention of the appellant is that the Tribunal as also the High Court relied on the fraudulent chargesheet prepared by the respondents in connivance with the police. In short, the contention of the appellant is that the High Court erred in relying on the chargesheet to arrive at the conclusion that the accident in question in which Udayanath Sahoo lost his life had occurred due to the rash and negligent driving of the truck insured with the appellant. Though respondent Nos.1 and 2 did not file any counter affidavit, the learned counsel appearing for them would submit that there is absolutely no illegality in relying on such documents consisting of FIR and the final report prepared in relation to the accident in question by the police, for the purpose of considering the question of negligence in a motor vehicle accident case. That apart, it is contended that the appellant despite attributing connivance of the respondents with the police, the appellant failed to prove the

same. In short, it is submitted that the appeal is devoid of merit and the same is liable to be dismissed.

7. As regards the reliability of charge sheet and other documents collected by the police during the investigation in motor accident cases, this Court in the case of Mangla Ram v. Oriental Insurance Co. Ltd. and Ors.1, held in paragraph No.27, thus : -

> "27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 & 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646, noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable (2018) 5 SCC 656; 2018 INSC 311 doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal".

(Emphasis Supplied)

8. It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal. In the contextual situation it is relevant to refer to a decision of this Court in Mathew Alexander v. Mohammed Shafi & Anr.2, this Court held thus:-

> "12....A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in Dulcina Fernandes vs. Joaquim Xavier Cruz, (2013) 10 SCC 646 which has referred to the aforesaid judgment in Bimla

Devi."

9. Thus, there can be no dispute with respect to the position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said that looking into (2023) 13 SCC 510; 2023 INSC 621 such documents for the aforesaid purpose is impermissible or inadmissible.

10. It is also a fact that the appellant had attributed that the respondent claimants connived with police and fraudulently prepared the chargesheet. The contention is that the vehicle insured with the appellant was not involved in the accident and the accident had occurred solely due to the rash and negligence on the part of the deceased. But the evidence on record would reveal that pursuant to the filing of the final report, cognizance was taken for rash and negligent driving which resulted in the death of Udayanath Sahoo.

11. In view of the aforementioned circumstances and taking note of the concurrent findings of the Tribunal and the High Court, we do not find any perversity in the impugned judgment warranting interference by this Court. Resultantly, the appeal must fail and consequently it is dismissed.

....., J.

(C.T. Ravikumar) ....., J.

(Rajesh Bindal) New Delhi;

January 02, 2025.