

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No.76 of 2016

M/S IFFCO TOKIO General Insurance Co. through its Vice President and
CSC Head, Mr. Saikat Sarkar **Appellant**

-Versus-

1. Manbodh Machuwa
2. Bhim Shankar
3. Kameshwar Machuwa
4. (a) Rekha Devi
 (b)Khusbu Kumari
(C)Suraj Kumar **Respondent(s)**

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant(s) : Mr. Ashutosh Anand, Adv.
For the Respondent Nos.1 to 3 : Mr. Kaushlendra Prasad, Adv

12/Dated: 15th April, 2024

1. In spite of valid service of notice and substitution by the legal heirs of respondent No.4, nobody has appeared on behalf of the respondent No.4.
2. The present miscellaneous appeal has been filed by the appellant-Insurance Company for challenging the liability fastened upon him.
3. It has been submitted by the learned counsel for the appellant-Insurance Company that the vehicle, in question, was being plied without registration. Plying of the vehicle without registration is a fundamental breach of law as per the insurance policy as well as Section 39 of the Motor Vehicles Act.
4. On that strength, it has been submitted that the insurance company is not liable to indemnify the owner of the vehicle.
5. Having heard the learned counsel for the parties and from perusal of the record, it appears that the issue No.V framed by the Tribunal is relevant, which is as follows:-

"Whether there was any breach of the terms and conditions of the insurance policy on the part of the owner of the tractor?

6. The claimant has been indemnified by the Tribunal only on the basis that the vehicle, in question, was registered, but it is an admitted position

rather finding of facts by the Tribunal that at the time of accident the vehicle, in question, was unregistered.

7. Considering the above facts, the present miscellaneous appeal is hereby, disposed of giving right to the appellant-Insurance Company to recover the amount from the owner/legal heirs of the offending vehicle.

8. So far as the claimant is concerned, his entitlement is not in dispute in the present case. The insurance company is directed to deposit the entire amount, if not already paid.

9. So far as the statutory amount is concerned, it should be remitted to the Tribunal for release of the same in favour of either claimants or Insurance Company depending upon the factual matrix of the case.

(Rajesh Kumar, J.)

*Raja/-
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