



1

MA-3597-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 10th OF NOVEMBER, 2025MISC. APPEAL No. 3597 of 2024*NEW INDIA INSURANCE COMPANY LIMITED**Versus**SMT. SUKRANIYA AND OTHERS*

Appearance:

Ms. Devyani Singh - Advocate for the appellant.

Shri Rahul Kumar Tripathi - Advocate for respondent nos.1 and 2.

Shri Ankit Shrivastava - Advocate for respondent no.4.

Reserved on - 15.10.2025

Pronounced on - 10.11.2025

ORDER

The present appeal under Section 173(1) of the Motor Vehicles Act, 1988 (hereinafter referred as Act,1988) has been preferred at the instance of the Insurance Company, challenging the award dated 23.12.2023 passed in Claim Case M.A.C.C. No.55/2022 by the learned Additional Motor Accident Claims Tribunal, Chhindwara (M.P.).

2. The facts necessary for disposal of the present appeal are that on 10.12.2021 at about 02:30 PM when the deceased Hariom Sallam was working in the mine, the driver/operator of Tata Hitachi Excavator 650 Poclain bearing registration number RJ-06-GB-0081 (respondent No.3 herein), in a rash and negligent manner, suddenly dashed the deceased, on account of which, the deceased sustained grievous injuries and died at



District Hospital, Chhindwara, during treatment. The matter was reported to the police and an FIR was registered at Police Station, Rawanwara (Shivpuri), District, Chhindwara vide Crime No.55/2022 for the offence punishable under Section 304-A of the Indian Penal Code. In the meantime, the respondent nos.1 and 2- claimants had preferred a claim petition before the learned Motor Accident Claim Tribunal, Chhindwara, MP. The trial was set into motion and after evaluating the ocular and documentary evidence, the Tribunal vide judgment dated 23.12.2023 partly allowed the claim petition and awarded compensation of Rs.13,91,080/-. Aggrieved by the said award, the insurance company has preferred the present Miscellaneous Appeal.

3. The learned counsel for the appellant-Insurance company submits that the learned Tribunal did not have jurisdiction to decide the claim as offending vehicle i.e. excavator (poclain) does not fall within the ambit of Act,1988. The offending vehicle involved in the case does not come within the meaning of 'motor vehicle' under Section 2(28) of Act, 1988, being special type vehicle meant to use in the restricted premises. It was neither transport nor strictly non-transport vehicle made exclusively to carry goods, but instead it was an earth moving vehicle, having a specified description as per Section 10(2) GQ of the Act, 1988. It is submitted that the concerned excavator was not equipped to travel on roads as it was fitted with steel plates to efficiently operate exclusively within the designated enclosed area of mine premises which was a prohibited area and not open to the public without permission. The learned Tribunal overlooked the fact that the



insurance company has produced a letter issued by Regional Transport Office, Chhindwara (MP), which describes the nature of vehicle being disqualified to be registered under the Act, 1988. She further argues that the insurance policy being exclusive vehicle insurance under contractor's plant cannot be categorized as a 'motor vehicle policy' under the law. In support of her contentions, she relied upon the order passed by co-ordinate Bench of this Court in the case of Future General India Ins. Co. Ltd. Vs. Smt. Santoshi and others passed in M.A. 732/18, dated 20.03.2024.

4. On the other side, counsel for respondent Nos. 1, 2 and 4 oppose the submissions made by counsel for the appellant saying that the learned Tribunal did not commit any error while passing the impugned award. They pray for dismissal of appeal.

5. Heard all the parties and perused the record.

6. Upon hearing the submissions, this Court finds that the Insurance Company has criticized the award impugned mainly on the ground of jurisdiction of Claims Tribunal submitting that the vehicle involved in the case being specialized vehicle does not fall under the Act, 1988, and thus, the Tribunal had no jurisdiction to decide the claim.

7. On perusal of the record, this Court finds it undisputed that the offending vehicle is an earth moving machine which runs into steel belts and does not require any registration with the Road Transport Department. However, the impugned award shows that the offending vehicle had a registration number i.e. RJ-06-GB-0081 which gets confirmed from the charge-sheet filed in the criminal case for the said accident.



8. Under the Act, 1988, a "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres.

9. In the case of **Bose Abraham Vs. State of Kerala**, reported in (2001) 3 SCC 157, the Hon'ble Supreme Court has held as under :-

"7. We hold that the excavators and road rollers are motor vehicles for the purpose of the Motor Vehicles Act and they are registered under that Act. The High Court has noticed the admission of the appellants that the excavators and road rollers are suitable for use on roads. However, the contention put forth now is that they are intended for use in the enclosed premises. Merely because a motor vehicle is put to a specific use such as being confined to enclosed premises, will not render the same to be a different kind of vehicle. Hence, in our view, the High Court has correctly decided the matter and the impugned order does not call for any interference by us. However, the question whether any motor vehicle has entered into a local area to attract tax under the Entry Tax Act or any concession given under the local Sales Tax Act will have to be dealt with in the course of assessment arising under the Entry Tax Act."

10. On going through the pronouncement passed by the Hon'ble Supreme Court as well as various High Courts, a chain-mounted excavator runs on steel/iron tracks primarily designed for off-road construction-site work, however, the same can be used on road as well. Therefore, this Court



deems it appropriate to hold that if the excavator is not registered, and is not capable of normal road use, it does not fall under the Act, 1988. But, if is registered, insured, and permitted to move on public roads even occasionally, then it would be treated as a motor vehicle under the Act, 1988. Precisely, a vehicle adapted for use on road and duly registered is a motor vehicle. Machines like road rollers, excavators, or cranes, when registered, come within the purview of Act, 1988, irrespective of premises of accident either restricted or open.

11. Once it is established that the excavator in question is duly registered with the Transport Department and bears a registration number under the Act, 1988, it satisfies the definition of a “motor vehicle” as contained in Section 2(28) of the Act. The mere fact that the vehicle is chain-mounted or primarily used for construction work, does not take it outside the purview of the statute. Consequently, such an excavator, being a registered motor vehicle, is governed by the provisions of the Act, 1988, and any claim arising out of its use or operation would squarely fall within the jurisdiction of the Motor Accidents Claims Tribunal constituted under Section 165 of the Act.

12. In the case at hand, the record suggests that the offending vehicle i.e. excavator got registered with the department, however, the accident occurred within the restricted premise. The letter dated 25.03.2022, though says about the non-requirement of registration of said offending vehicle but specifically does not say that the said vehicle was not registered with the department. The appellant/insurance company has failed to examine any



witness to prove the contrary. The driver of offending vehicle possessed the Heavy Transport Vehicle License at the time of accident and the appellant/insurance company has failed to prove that he was not authorized to operate the offending vehicle. The liability to prove these issues lies upon the insurance company and it has failed to produce any ocular or documentary evidence to prove these issues in their favor.

13. The judgment relied upon by the learned counsel for the appellant is clearly distinguishable on facts. In the cited case, the vehicle in question was not registered under the provisions of the Motor Vehicles Act whereas in the present case, the excavator is duly registered with the Transport Department and carries a valid registration number, thereby attracting the applicability of the Act, 1988. Consequently, the ratio laid down in the relied judgment cannot be applied to the facts of the present matter.

15. Accordingly, the appeal fails and is hereby **dismissed**. No order as to costs.

(HIMANSHU JOSHI)
JUDGE