

ITEM NO.104 +107

COURT NO.12

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 7198-7199/2022

SUJATA SINGH & ANR.

Appellant(s)

VERSUS

DIVISIONAL MANAGER NATIONAL INSURANCE CO. LTD. & ANR. Respondent(s)

ITEM NO.107

Civil Appeal No(s). 7965/2022

G. SANTHI & ORS.

Appellant(s)

VERSUS

THE BRANCH MANAGER, THE ORIENTAL
INSURANCE COMPANY LTD. & ANR.

Respondent(s)

(IA No. 105072/2021 - ADDITION / DELETION / MODIFICATION PARTIES)
(IA No. 105067/2021 - DECLARING THE PETITIONER AS MAJOR)
(IA No. 105065/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

Date : 09-02-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MS. JUSTICE HIMA KOHLI

For Parties(s)

M/S. Ksn & Co., AOR
Mr. Siddharth Naidu, Adv.
Mr. V Balachandran, Adv.

Mr. Mahfooz Ahsan Nazki, AOR
Mr. Polanki Gowtham, Adv.
Ms. Rajeswari Mukherjee, Adv.
Ms. Niti Richhariya, Adv.

Mr. Sudhir Naagar, AOR

Mr. Abhishek Kumar Gola, Adv.
Mr. Nikhil Jain, AOR
Ms. Divya Jain, Adv.
Ms. Nupur Prasad, Adv.
Mr. Anshul Mehral, Adv.

Mr. Prashant Mohla, Adv.
Mr. Vinod Kumar Jain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Application (IA No. 105072/2021) seeking Addition / Deletion / Modification Parties in Civil Appeal No(s). 7965/2022 is allowed.

During the course of the hearing of these appeals, we notice that the accidents are said to have occurred while either a family member was driving/riding the vehicle or the person driving/riding the said vehicle was a close friend or relative of the owner of the vehicle. It is also noticed that in such a circumstance though, there is use of the motor vehicle, as required under the Motor Vehicles Act, 1988, the accident had occurred without the involvement of another 'offending' vehicle. In such a situation, the Insurance Company, while declining to reimburse the compensation, have sought to rely on the India Motor Tariff , more particularly, Section III relating to personal accident cover for owners-drivers.

In that regard, it is no doubt true that on issues relating to the vehicle being borrowed/hold, it has been held by this Court that such person steps into the shoes of the owner and therefore, the Section III relating to personal cover for the owner-driver would apply. However, in the present circumstance, we notice that though, the driver-owner/family member was not infact negligent in causing the accidents, it has occurred due to other causes such as in one of the cases, a *Nilgai* from the wild crossed the road and the accident had occurred. The claim therefore, was strictly not considered as one falling for claim of compensation.

In these sort of matters, an appropriate consideration is required to be made by the Insurance Regulatory and Development Authority of India (*for short 'IRDAI'*) to include such claims since at present, they are not considered as an occupant of the vehicle.

Though, at this stage we do not express any opinion on the merits of the case, but *prima facie* we are of the view that such coverage should be considered firstly by the IRDAI by taking into consideration the existing tariff which is indicated to also include such cases for reimbursement.

We request Mr. Abhishek Gola, learned counsel appearing for the Insurance Company as well as for the IRDAI to bring these aspects to the notice of the concerned authorities to take a decision in the matters and inform this Court.

List the matters after two weeks.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(DIPTI KHURANA)
ASSISTANT REGISTRAR