

*Before Nawab Singh, J.*

**RELIANCE GENERAL INSURANCE COMPANY  
LIMITED,—Petitioner**

*versus*

**ABHEY SINGH & OTHERS,—Respondents**

**Civil Revision No.6696 of 2010**

2nd February, 2012

***Motor Vehicles Act, 1988 - S.170 - Civil Revision filed - Order of MACT challenged whereby the insurance company was disallowed from contesting petition on grounds available to other respondents - Petition allowed holding that where insurance company is impleaded as a party, it should be allowed to contest the petition on grounds available to it.***

*Held*, that solitary submission of learned counsel for the insurance company is that insurance company should be allowed to cross-examine Sushila Devi (PW-2), Karambir alias Dillu (PW-3) and Kapil Devi (PW-5) claimant and eye witness respectively. To support the contention, reliance has been placed on United India Insurance Company Limited vs. Shila Datta and others (2011) 10 SCC 509 wherein Hon'ble Supreme Court observed in paragraph No.14 as under :-

"14. When an insurer is impleaded as a party-respondent to the claim petition, as contrasted from merely being a notice under Section 149(2) of the Act, its rights are significantly different. If the insurer is only a noticee, it can only raise such of those grounds as are permissible in law under Section 149(2). But if he is a party-respondent, it can raise, not only those grounds which are available under Section 149(2) but also all other grounds that are available to a person against whom a claim is made. It, therefore, follows that if a claimant impleads the insurer as a party-respondent, for whatever reason, then as such respondent, the insurer will be entitled to urge all contentions and grounds which may be available to it".

(Para 2)

*Further held*, that in view of the law enunciated in the aforesaid authority, there should not be any impediment in allowing the insurance company to contest the claim petition on any of the grounds available to it provided insurance company is impleaded as party-respondent which in this case has been done.

(Para 3)

*Further held*, that, in view of above, order under challenged is set-aside. Consequently, the insurance company is allowed to cross-examine the aforesaid witnesses.

(Para 4)

Suman Jain, Advocate, *for the petitioner*.

Jai Singh Yadav, Advocate, for respondent No. 1 and 2.

R.D. Yadav, Singh Advocat, for respondents No. 3 and 4.

**NAWAB SINGH J. (ORAL)**

(1) This insurer's revision is directed against the order dated 2nd March, 2010 passed by the Motor Accident Claims Tribunal (for short "the Tribunal"), Rewari. For ready reference the order is reproduced as under :—

“Separate replies on behalf of petitioner and respondents No. 1 and 2 have been filed to the application of respondent No. 2 insurance company under section 170 of MW Act. Learned counsel for the parties heard on the aforesaid application. Since nothing has been shown on the report that petitioner is colluding in any manner with respondents No. 1 and 2. Therefore, insurance company cannot be permitted to contest the petition on the grounds available respondents No. 1 and 2. Accordingly, the aforesaid application of the insurance company is hereby dismissed.

Respondent No. 1 namely Ashok is present and examined as RW1 in the evidence of respondents No. 1 and 2. Learned counsel for respondents No. 1 and 2 closed the evidence on behalf of respondents No. 1 and 2. Now to come up on 5th March, 2010 for the evidence of respondent No. 3 insurance company at own responsibility.”

(2) The solitary submission of learned counsel for the insurance company is that insurance company should be allowed to cross-examine Sushila Devi (PW-2), Karambir alias Dillu (PW-3) and Kapil Devi (PW-5) claimant and eye witnesses respectively. To support the contention, reliance has been placed on **United India Insurance Company Limited versus Shila Datta and others** (1) wherein Hon'ble Supreme Court observed in paragraph No. 14 as under :—

“14. When as insurer is impleaded as a party-respondent to the claim petition, as contrasted from merely being a noticee under Section 149(2) of the Act, its rights are significantly different. If the insurer is only a noticee, it can only raise such of those grounds as are permissible in law under Section 149(2). But if he is a party-respondent, it can raise, not only those grounds which are available under Section 149(2) but also all other grounds that are available to a person against whom a claim is made. It, therefore, follows that if a claimant impleads the insurer as a party-respondent, for whatever reason, then as such respondent, the insurer will be entitled to urge all contentions and grounds which may be available to it.”

(3) In view of the law enunciated in the aforesaid authority, there should not be any impediment in allowing the insurance company to contest the claim application on any of the grounds available to it provided insurance company is impleaded as party-respondent which in this case has been done.

(4) In view of above, order under challenge is set-aside. Consequently, the insurance company is allowed to cross-examine the aforesaid witnesses.

(5) Learned counsel for the claimants has urged that all endeavors shall be made to produce the witness on the date fixed before the Tribunal.

(6) The revision is disposed of accordingly.

---

***J.S. Mehndiratta***

---

(1) 2011 (10) SCC 509