

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.44 OF 2026
(Arising out of SLP (Civil) No.715 of 2023)**

**NATIONAL INSURANCE
COMPANY LTD.**

... APPELLANT(S)

VERSUS.

**MASTER FREWIN SEBY DE
MELO & ORS.**

... RESPONDENT(S)

O R D E R

1. Leave granted.
2. The appellant/Insurance Company has filed the present appeal challenging the order¹ passed by the High Court².
3. Briefly the facts available on record are that a vehicle bearing Registration No. GA-06D-0962, which was insured with the appellant/Company, met with an accident on 28.12.2010, as a result of which one Santana De Melo died. Master Frewin Seby de Melo, being the minor son of

¹ Dated 01.07.2022 in First Appeal No.129/2015

² High Court of Bombay, Bench at Goa

the deceased, filed the claim petition³ before the Tribunal⁴ which was allowed vide award dated 03.01.2015. The Tribunal assessed the compensation at ₹1,89,45,000/-. It was claimed that the deceased was working as a seaman (Assistant Waiter) with the Celebrity Cruises Inc., Caribbean Way, Miami, Florida, on a monthly salary of 3,000 USD. During the pendency of the said claim petition, the appellant/Company filed an application before the Tribunal under Section 170 of the Motor Vehicles Act, 1988⁵, praying for granting permission to take defence of collusion available under the 1988 Act, on the ground that the driver is a family friend and the owner of the vehicle is the mother of the claimant and widow of the deceased, however, the same was not decided by the Tribunal.

3.1 Satisfied with the Award of the Tribunal, the claimants did not challenge the same, however, aggrieved against the Award, the appellant/Company preferred appeal before the High Court. The quantum of compensation was also sought to be challenged. The High Court vide order dated 29.04.2022 remitted the matter back to the Tribunal

3 Claim Petition No.158/2011

4 Motor Accident Claims Tribunal, South Goa, at Margao

5 For short, 'The 1988 Act'

for the limited purpose of deciding the application under Section 170 of the 1988 Act and also directed the Tribunal to resend the records to the High Court after disposal of the same. The Tribunal vide order dated 13.06.2022 dismissed the application of the appellant/Company filed under Section 170 of the 1988 Act.

3.2 Thereafter, the High Court, as noticed above, dismissed the appeal filed by the appellant/Company vide order dated 01.07.2022. It is this order, which is impugned before this Court.

4. Learned counsel for the appellant/Company submitted that the impugned order of the High Court is erroneous in law whereby the appellant/Company has been deprived of challenging the award of the Tribunal on quantum of compensation. Reliance was placed upon the judgment of this Court in ***United India Insurance Company Limited v. Shila Datta and others***⁶, and the consequent orders passed by this Court in ***New India Assurance Co. Ltd. v. Krishna Sakharam Baing and Ors.***⁷ and ***Bajaj Allianz General Insurance Company***

6 (2011) 10 SCC 509

7 C.A. No. 252 of 2025 Etc.; MANU/SCOR/52757/2022

Ltd. v. Kamla Sen⁸. He further submitted that the High Court ignored the enunciation of law by this Court in **Shila Datta's case (supra)**⁹ which clearly laid down that the Insurance Company has right to challenge the award of the Tribunal on all available grounds, without any restriction to grounds available under Section 149(2) of the 1988 Act. Any contrary view taken by a two-Judge Bench of this Court will not have any legal force as the judgment in **Shila Datta's case (supra)** is of a bench consisting of three Hon'ble judges. He prayed for setting aside the order of the High Court and remitting the case back for decision afresh on assessment of quantum of compensation. It was further submitted that the income of the deceased was not appropriately proved. He was not working continuously for the entire year and the salary being drawn by him was also in dispute. In fact it was a case of connivance between the parties.

5. In response, learned counsel for the respondent fairly submitted that the law laid down by this Court in **Shila Datta's case (supra)** is not in dispute. In the case

⁸ C.A. No. 9427 of 2013; MANU/SC/1379/2013

⁹ (2011) 10 SCC 509

in hand, the appellant/Company was made party. It had filed the application under Section 170 of the 1988 Act, which was rejected by the Tribunal and now the appellant/Company cannot be permitted to raise the same issue again. In any case, if this Court finds any merit in the contentions raised by the learned counsel for the appellant/Company, the matter may have to be remitted back to the High Court for consideration on the issue of quantum of compensation for which the respondent/claimant should also be given liberty to raise his arguments.

6. Heard learned counsel for the parties and perused the relevant referred record.

7. On the legal issue regarding right of the Insurance Company to contest the claim under the 1988 Act on various grounds, the law is well-settled. The issue was considered by a three-Judge Bench of this Court in ***Shila Datta's case (supra)***. The same is extracted below:

“2. On the said reference made, the following questions arise for our consideration, in regard to the position of an insurer under the Motor Vehicles Act, 1988 (“the Act”, for short):

(i) Whether the insurer can contest a motor accident claim on merits, in particular, in regard to the quantum, in addition to the grounds mentioned in Section 149(2) of the Act for avoiding liability under the policy of insurance?

x x x

Re : Point (i) : The position in cases where the claimants implead the insurer as a respondent in the claim petition

13. The scheme of the Motor Vehicles Act, 1988 as contained in Chapters XI (Insurance of Motor Vehicles against Third-party Risks) and XII (Claims Tribunals) proceeds on the basis that an insurer need not be impleaded as a party to the claim proceedings and it should only be issued a statutory notice under Section 149(2) of the Act so that it can be made liable to pay the compensation awarded by the Tribunal and also resist the claim on any one of the grounds mentioned in clauses (a) and (b) of sub-section (2) of Section 149. Sub-sections (1), (2) and (7) of Section 149 clearly refer to the insurer being merely a noticee and not a party. Similarly, Sections 158(6), 166(4), 168(1) and 170 clearly provide for and contemplate the insurer being merely a noticee for the purposes mentioned in the Act

and not being a party-respondent. Section 170 specifically refers to impleading of insurer as a party to the claim proceedings.

14. When an 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.

15. The Act does not require the claimants to implead the insurer as a party-respondent. But if the claimants choose to implead the insurer as a party, not being a noticee under Section 149(2), the insurer can urge all grounds and not necessarily the limited grounds mentioned in Section 149(2) of the Act. If the insurer is already a respondent (having been impleaded as a party-

respondent), it need not seek the permission of the Tribunal under Section 170 of the Act to raise grounds other than those mentioned in Section 149(2) of the Act.

x x x

19. Therefore, where the insurer is a party-respondent, either on account of being impleaded as a party by the Tribunal under Section 170 or being impleaded as a party-respondent by the claimants in the claim petition voluntarily, it will be entitled to contest the matter by raising all grounds, without being restricted to the grounds available under Section 149(2) of the Act. The claim petition is maintainable against the owner and driver without impleading the insurer as a party."

(emphasis supplied)

7.1 The same view was followed by this Court in **Krishna Sakharam Baing** and **Kamla Sen's cases (supra)**.

7.2 In view of the aforesaid enunciation of law, there cannot be two opinions that the Insurance Company when impleaded as a respondent in the claim petition has the right to contest the claim on all available grounds, without any restriction to grounds available under Section 149(2) of

the 1988 Act.

7.3 As far as the argument raised by the learned counsel for the respondent regarding rejection of the application of the appellant/Company filed under Section 170 of the 1988 Act is concerned, the same is merely to be noticed and rejected. It is for the reason that any rejection of the application can always be impugned with the final order. Further, the law on the legal issue being already settled by this Court, the same was required to be followed. There is an apparent error committed by the Tribunal in rejecting the application filed by the appellant/Company under Section 170 of the 1988 Act. The error was perpetuated by the High Court by not allowing the appellant/Company to address the court on the issue of quantum of compensation.

8. For the reasons mentioned above, the present appeal is allowed. The impugned order passed by the High Court is set aside and the matter is remitted back to the High Court for consideration on the issue of quantum of compensation. Needless to mention that both the parties will be given due opportunity of hearing.

9. Considering the fact that the accident took place more than 15 years back, the High Court is requested to expedite the hearing of the appeal. It is also clarified that the amount of compensation already released to the respondent/claimant shall remain subject to the final outcome of the appeal by the High Court.

10. Pending application(s), if any, shall also stand disposed of.

.....J.
(RAJESH BINDAL)

.....J.
(VIJAY BISHNOI)

NEW DELHI;
January 05, 2026.

ITEM NO.51

COURT NO.15

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 715/2023

[Arising out of impugned final judgment and order dated 01-07-2022 in FA No. 129/2015 passed by the High Court of Judicature at Bombay at Goa]

NATIONAL INSURANCE COMPANY LTD.

Petitioner(s)

VERSUS

MASTER FREWIN SEBY DE MELO & ORS.

Respondent(s)

(IA No. 131883/2023 - SUBSTITUTED SERVICE)

Date : 05-01-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Petitioner(s) :

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

For Respondent(s) :

Mr. Ninad Laud, Adv.
Mr. Ivo D'Costa, Adv.
Mr. Gokula Krishnan T., Adv.
Ms. Anshula Vijay Kumar Grover, AOR
Mr. Gajendra Singh Negi, Adv.

Mr. Keith Varghese, AOR

Mr. Sahil Tagotra, AOR
Ms. Shreya Kasera, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application shall also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AKSHAY KUMAR BHORIA)
COURT MASTER

(Signed order is placed on the file.)