

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9427 OF 2013  
(@ SPECIAL LEAVE PETITION (C) NO.22535 OF 2009)

BAJAJ ALLIANZ GENERAL INSURANCE  
COMPANY LTD.

...APPELLANT

VERSUS

KAMLA SEN & ORS.

...RESPONDENTS

O R D E R

1. Leave granted.

2. This appeal by special leave is directed against the judgment and order passed by the High Court of Judicature at Jabalpur, Madhya Pradesh in M.A. No. 4823 of 2008, dated 01.05.2009, whereby the High Court has dismissed the appeal of the appellant on the ground that since it had failed to move an application under Section 170 of the Motor Vehicles Act, 1988 (for short, 'the Act'), it was not open to the appellant to challenge the award of the Motor Accidents Claim Tribunal, Hoshangabad (for short, 'the Tribunal') in Claim Case No. 21 of 2008, dated 28.07.2008, except on grounds provided under Section 149 of the Act and therefore upheld the quantum of compensation as awarded by the Tribunal.

3. We have heard learned counsel for the parties to the lis.

4. The issues raised in this appeal, in our view, are no more res integra, in view of the decision of this Court in the case of United Insurance Co. Ltd. Vs. Shila Datta & Ors, (2011) 10 SCC 509. Relevant paragraphs are quoted hereunder:

"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.

20. When a statutory notice is issued under Section 149(2) by the Tribunal, it is clear that such notice is issued not to implead the insurer as a party-respondent but merely to put it on notice that a claim has been made in regard to a policy issued by it and that it will have to bear the liability as and when an award is made in regard to such claim. Therefore, it cannot, as of right, require that it should be impleaded as a party-respondent. But it can, however, be made a party-respondent either by the claimants voluntarily in the claim petition or by the direction of the Tribunal under Section 170 of the Act. Whatever be the reason or ground for the insurer being impleaded as a party, once it is a party-respondent, it can raise all contentions that are available to resist the claim."

5. Following the observations made in the aforesaid decision, this appeal is disposed of. Accordingly while setting aside the impugned judgment and order passed by the High Court we remand the matter back to



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

Leave granted.

The appeal is disposed of in terms of the signed order.

The matter is remanded back to the High Court for reconsideration as per law.

	[ Charanjeet Kaur ]		[ Vinod Kulvi ]	
Court Master		Asstt. Registrar		

[ Signed order is placed on the file ]