



CGHC010011972023



2026:CGHC:39732

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 69 of 2023**

1 - Kanhaiyadas Mahant S/o Budhwadas Mahant Aged About 50 Years R/o Ward No. 5, Purenhapara, Behind Government Hospital, Sakti, Police Station And Tahsil Sakti(Claimants), District : Janjgir-Champa, Chhattisgarh

2 - Gurwaribai Mahant W/o Kanhaiyadas Mahant Aged About 44 Years R/o Ward No. 5, Purenhapara, Behind Government Hospital, Sakti, Police Station And Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh

3 - Chanchal Mahant D/o Kanhaiyadas Mahant Aged About 19 Years R/o Ward No. 5, Purenhapara, Behind Government Hospital, Sakti, Police Station And Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh

4 - Minor Tuleshwari Mahant D/o Kanhaiyadas Mahant Aged About 14 Years Minor Through Their Natural Guardian Father Kanhaiyadas Mahant (Appellant No. 1). R/o Ward No. 5, Purenhapara, Behind Government Hospital, Sakti, Police Station And Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh

... Appellants**versus**

1 - Krishna Auto, Proprietor Vikas Agrawal S/o Bajrang Agrawal Aged About 44 Years R/o Village Dabhara, Police Station And Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh(Owner Of Vehicle).

2 - I.C.I.C.I. Lombard General Insurance Company Limited Branch Officer Korba, Tahsil And District Korba Chhattisgarh. (Insurance Company).

... Respondents

For Appellants	: Mr. Ishwar Raj Chandra, Adv. on behalf of Mr. Ishwar Jaiswal, Advocate.
For Respondent No. 1	: Mr. Ankit Singhal, Advocate.
For Respondent No. 2	: None.

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

10/09/2026

1. This is claimants' appeal under Section 173 of M.V. Act against the award dated 02.12.2022 passed by the 2nd Additional Motor Accidents Claims Tribunal, Sakti, District - Janjgir-Champa (C.G.) in Motor Accident Claim Case No. 53/2021 whereby the claim application filed under Section 163-A of the Motor Vehicles Act by the claimants has been dismissed.
2. The case of the appellants, in brief, is that the deceased Haridas Mahant alias Mintudas was employed as a labourer at Krishna Auto Tractor Agency, near Beriwal Temple, Sakti. On the date of the accident i.e. 24.10.2019, at the direction of his employer, he rode Motorcycle No. CG-11-AE-7753 (Hero HF Deluxe) from the agency to the railway station for work. While returning to the agency, the motorcycle developed a mechanical fault, resulting in an accident. The deceased fell and sustained grievous injuries. He was taken to the Community Health Centre, Sakti, for treatment and, owing to his critical condition, was referred to the Government District Hospital, Janjgir. However, he died near Champa while being transported.
3. As against compensation of Rs.22,09,400/- claimed by the legal heirs of the deceased by filing a claim application under Section 163-A of the Motor Vehicles Act (henceforth 'the Act') for the death of Haridas Mahant @ Mintudas Mahant, aged about 21 years, in the motor accident on 24.10.2019. The Tribunal, on due consideration of the

evidence, held that the accident had occurred due to a mechanical fault of the motorcycle bearing registration No. CG-11-AE-7753, owned by Krishna Auto/respondent No. 1, by its rider/deceased. Therefore, considering the provisions of Section 163-A of the Motor Vehicles Act, the claim petition filed under Section 163-A of the Motor Vehicles Act by the legal heirs of the deceased is not maintainable and is dismissed the claim application holding that the claimants are not entitled to compensation.

4. Learned counsel appearing for the appellants/claimants would submit that the learned Tribunal has erred in rejecting the claim petition filed under Section 163(A) of the M.V. Act because the motorcycle was insured with the respondent No. 2. The learned Claims Tribunal failed to appreciate that there was a technical fault in the motorcycle when the deceased was driving the offending vehicle, by which the accident took place, and therefore the rejection of the claim petition is not just and proper. As such, the appeal may be allowed, and proper compensation may be awarded in favour of the claimants.
5. Learned counsel appearing for respondent No. 1, on the other hand, supported the award impugned and submitted: in the facts and circumstances of the case, the Tribunal has rightly dismissed the claim petition.
6. I have heard learned counsel for the parties and perused the record of the Tribunal including award impugned.
7. The Hon'ble Supreme Court in the matter of **Ramkhaladi and another vs. United India Insurance Company and another**, reported in **(2020) 2 SCC 550** wherein the Supreme Court, relying upon its own case rendered in the matter of **Ningamma v. United**

India Insurance Co. Ltd., reported in **(2009) 13 SCC 710**, has specifically observed and held that the provisions of Section 163-A of the Act cannot be said to have any application with regard to an accident wherein the owner of the motor vehicle himself is involved.

Para 9.4 is relevant for the purpose, which is reproduced as under:

“9.4. An identical question came to be considered by this Court in Nigamma. In that case, the deceased was driving a motorcycle which was borrowed from its real owner and met with an accident by dashing against a bullock cart i.e. without involving any other vehicle. The claim petition was filed under Section 163-A of the Act by the legal representatives of the deceased against the real owner of the motorcycle which was being driven by the deceased. To that, this Court has observed and held that since the deceased has stepped into the shoes of the owner of the vehicle, Section 163-A of the Act cannot apply wherein the owner of the vehicle himself is involved. Consequently, it was held that the legal representatives of the deceased could not have claimed the compensation under Section 163-A of the Act. Therefore, as such in the present case, the claimants could have even claimed the compensation and/or filed the claim petition under Section 163-A of the Act against the driver, owner and insurance company of the offending vehicle i.e. motorcycle bearing Registration No. RJ 29 2M 9223, being a third party with respect to the offending vehicle. However, no claim under Section 163-A was filed against the driver, owner and/or insurance company of the motorcycle bearing Registration No. RJ 29 2M 9223. It is an admitted position that the claim under Section 163-A of the Act was only against the owner and the insurance company of the motorcycle bearing Registration No. RJ 02 SA 7811 which was borrowed by the deceased from the opponent-owner Bhagwan Sahay. Therefore, applying the law laid down by this Court in Ningamma and as the deceased has stepped into the shoes of the owner of the vehicle bearing Registration No. RJ 02 SA 7811, as rightly held by the High Court, the claim petition under Section 163-A of the Act against the owner and insurance company of the vehicle bearing Registration No. RJ 02 SA 7811 shall not be maintainable.”

8. In the case in hand, the deceased was not a third party to the of offending vehicle/motorcycle but was the rider/driver. Furthermore, looking to the vehicle policy (Ex.D-1) and the statement of Ramesh Kumar Sinha (NAW-1), examined by the insurance company, it has come to light that no premium amount has been paid to the insurance company for risk coverage of driver or owner.

9. Having applied the principles laid down by the Hon'ble Supreme Court, in the above referred matter, to the present case, it is held that the claim petition filed under Section 163-A of the Act, 1988 is not maintainable. The appeal filed by the appellants, on its face, is devoid of merit and the same is accordingly liable to be and is hereby **dismissed**.

10. In the facts and circumstances of the case, there shall be no order as to costs.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

H. L. Sahu