



CGHC010101172021



2026:CGHC:38240

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 245 of 2021**

Smt. Keshar Bai Mahobiya W/o Late Vishwanath Mahabiya Aged About 56 Years R/o Ward No. 4, Chhuikhadan, Tahsil- Chhuikhadan, District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

... Appellant**versus**

Sewakram Humdev S/o Ramchand Humdev Aged About 54 Years R/o Shastri Nagar, Saraipali, Tahsil- Saraipali, District- Mahasamund Chhattisgarh. Regd. Owner Of Vehicle Motor Cycle Bearing Registration No. CG/06-A/1438. District : Mahasamund, Chhattisgarh

... Respondent

For the appellant	: Ms. Pooja Yadav, Advocate, on behalf of Mr. Shivendu Pandya, Advocate
For the Respondent	: Mr. C.J.K. Rao, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order on Board
(25.08.2026)

1. The claimant/appellant has filed this appeal under Section 173 of the Motor Vehicles Act against the award dated 03.10.2019 passed by the Additional Motor Accident Claims Tribunal, Khairagarh, District Rajnandgaon (C.G.) in Claim Case No. 21/2018 whereby the

application filed u/s 166 of the Motor Vehicles Act by the appellants was dismissed by the learned Tribunal.

2. Brief facts of the case as pleaded by the claimant are that on the date of accident 06.09.2017 claimant's son Prakash Mahobia (deceased) was going from Chhuikhadan to Khairagarh by riding motorcycle No.C.G.06-A/1438. On the way at about 08.10 hrs. when he reached near Dhimreen Kuan chowk, the motorbike slipped and fell on the ground, due to which, deceased suffered grievous head injury which resulted in his death. The claimant being legal heir filed claim application seeking a total compensation of Rs.52,90,000/-.
3. Learned counsel for the appellant submits that learned Tribunal failed to properly consider the material placed by the claimant and erroneously dismissed the claim petition, therefore, it is prayed that the impugned award be set aside and the claimant be awarded compensation in accordance with law.
4. I have heard learned counsel for the appellant and perused the material available on record.
5. The question involved in this appeal is, whether the claimant being legal heir of the deceased Prakash Mahobia who died while he was driving the motorcycle is entitled to compensation under Section 166 of the Motor Vehicles Act, 1988?
6. It is an admitted fact that the appellant is mother of deceased. Respondent no.1 is stated to be registered owner of the offending motorcycle CG06-A/1438. The said vehicle was said to have been purchased by one Tilakram Mahobia from respondent no.1 Sewakram. It appears that at the relevant time of accident, the offending motorcycle was not insured either by alleged purchaser (Tilak Ram) or the respondent Sewakram (seller).

7. In the matter of **Ningamma & Anrs. v. United India Insurance Co. Ltd. (2009) 13 SCC 509: AIR 2009 SC 3056**, Hon'ble Supreme Court has held that in case of death of owner while driving his own vehicle, his legal heirs are not entitled to claim compensation under section 163(A) of Motor Vehicles Act. Similarly, if a borrower of vehicle died in accident, his legal heirs are also not entitled to claim compensation under Section 163 (A) as borrower will be considered owner of the vehicle.
8. In **G. Nagarathna v. G. Manjunatha (2024) Supreme (Kar) 1260**, the High Court of Karnataka dismissed a miscellaneous appeal preferred by the legal representatives of the deceased, inter alia, holding that a claim application under Section 166 of the Motor Vehicles Act by the legal representatives of a tort-feasor is not maintainable. The Court also held that only loss of consortium can be granted in such cases.

The relevant paragraphs 11, 12, & 14 are reproduced hereinbelow:-

"11. The wife, son and parents of deceased Sri.N.S.Ravisha filed claim petition seeking for compensation of Rs.80,00,000/- for the death of Sri.N.S.Ravisha in a road traffic accident that occurred on 18.06.2014. The averments in the claim petition are that the deceased Sri.N.S.Ravisha drove Fiat Linea car bearing registration No.KA-06 N-5997 in high speed, rash and negligent manner without following the traffic rules, lost control over the same, due to which the car toppled on the road leading to his death. The wife of the deceased i.e. claimant No.1 entered the witness box as PW-1 and deposed that accident occurred due to tire burst. The said portion of the evidence is contrary to her own pleading. Hence, such evidence is unacceptable. The pleading and evidence available on record indicate that the claimants have taken clear stand before the Tribunal that the accident occurred due to rash and negligent driving of the car by the deceased Sri.N.S.Ravisha.

12. Admittedly, the deceased had borrowed the said car from respondent No.1, the registered owner, which was insured with respondent No.2 - Insurance Company. As on the date of the accident, the insurance was in force. Immediately after the accident, Smt. Shobharani furnished information regarding the accident to the Arasikere Rural Police on 18.06.2014 at 11 a.m. Based on the said information, the jurisdictional police registered FIR in Crime No.149/2014 for the offences

punishable under Sections 279, 337 and 304A of IPC against the deceased Sri N.S. Ravisha. Upon investigation, the police filed an abated charge sheet against him. Admittedly, the claimants have not challenged the charge sheet filed against the deceased. The claimants subsequently sought to amend the claim petition by filing an application under Order VI Rule 17 CPC, proposing to introduce a new plea, namely, that the driver-side tyre had burst as a result of which the car tilted, the driver lost control, and the accident has caused.

14. Insofar as the entitlement to compensation and the maintainability of the claim petition under Section 166 of the Act is concerned, the Hon'ble Supreme Court in Ningamma (supra) has clearly held that when an application for compensation is made under Section 166, the Tribunal is required to hold an enquiry into the claim and thereafter proceed to make an award. It is further observed that when such a claim is made by the legal representatives of the deceased, it must be proved that the deceased was not himself responsible for the accident by his rash and negligent driving, and that he would be covered under the policy so as to make the Insurance Company liable to pay compensation to his legal heirs. In the present case, it is admitted that the accident occurred due to the rash and negligent driving of the deceased himself, and he being a self tort-feasor, his legal heirs cannot claim compensation for his death; otherwise, it would amount to permitting a person who committed a breach to secure compensation for his own wrongs. Here, the deceased had borrowed the vehicle in question from respondent No.1; thus, he stepped into the shoes of the owner of the vehicle, and for the negligence of the owner or borrower of the vehicle, the Insurance Company cannot be compelled to indemnify such wrongs. This view finds support from the judgment of the Hon'ble Supreme Court in Minu B. Mehta and Another (supra). The judgment relied upon by the learned counsel for the Insurance Company also supports this view with regard to the entitlement of compensation by the heirs of the deceased when the deceased himself is the tort-feasor."

9. In the instant case, the claimant has produced Final Report (Ex.P-4) and FIR (Ex.P-5), on the basis of which, the Tribunal found that on 06.09.2017 deceased Prakash Mahobia while driving the motorcycle rashly and negligently hit the bicycle of one Dakeshwar Patel from behind, due to which, he (deceased) fell down from motorcycle and succumbed to grievous injuries during treatment.
10. A perusal of final report at a glance would go to show that deceased Prakash Mahobia himself drove the offending motorcycle by

borrowing it from his relative Tilak Ram Mahobia and due to his rash and negligent driving he fell down and sustained injuries which resulted in his death. It was no-where mentioned in final report (Ex.P-4) and FIR (P-5) that the accident occurred due to someone's negligence or collision. Consequently, the claimant's son has been made an accused in the case and after being made an accused, the case was closed. Since the accident occurred due to deceased's negligence, the respondent is not responsible.

11. In view of the aforesaid facts and the settled legal position, the claimant failed to substantiate the claim application for compensation u/s 166 of the Motor Vehicles Act. The finding recorded by the learned Tribunal under Issue No. 6 that the claimant is not entitled for compensation is based on proper appreciation of the evidence, therefore, warrants no interference.

12. Accordingly, the appeal, being devoid of merit, is **dismissed**.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

Rao