



CGHC010222622020



2026:CGHC:41812

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HIGH COURT OF CHHATTISGARH AT BILASPUR

The date which the case is reserved for order	The date when Judgment is pronounced	The date when the Judgment is uploaded
15-09-2026	15-9-2026	25-9-2026

MAC No. 1070 of 2020

1 - Shrawan Kumar Shriwas S/o Kanhaiya Lal Shriwas Aged About 43 Years Resident Of Village Kartala, Police Station Kartala, District Korba Chhattisgarh., District : Korba, Chhattisgarh

2 - Smt. Rajkumari W/o Shrawan Kumar Shriwas Aged About 40 Years Resident Of Village Kartala, Police Station Kartala, District Korba Chhattisgarh., District : Korba, Chhattisgarh

--- Appellants

versus

1 - Bhanu Pratap Rathiya S/o Chatur Rathiya Aged About 48 Years Resident Of Village Kartala , Police Station Kartala , District Korba Chhattisgarh. (Vehicle Owner), District : Korba, Chhattisgarh

2 - Tata Aig General Company Limited Second Floor , Building No. 9/1, Behind Khandelwal Motors, M.G. Road, Adjoling Terser, Island Mall Indore 452001, Pulkit 1 (Insurance Company)

--- Respondents

For appellants	:	Mr. Aditya Khare, Adv.
For Respondent No. 2	:	Ms. Harneet Kaur, Adv. on behalf of Mr. Saurabh Sharma, Adv.
For respondent No. 1	:	None appears.

(HON'BLE MR. SANTOSH SHARMA, J.)

CAV JUDGMENT

1. The appellants/claimants have preferred this miscellaneous appeal against the award dated 21-01-2020 passed by the learned Motor Accident Claims Tribunal, Korba (hereinafter referred to as "the Tribunal") in Motor Accident Claim Case No. 74/2019, whereby the learned Tribunal has rejected the claim application filed by the claimants.
2. Brief facts of the case are that the appellants/claimants, who are the father and mother of the deceased, filed a claim application under Section 163-A of the Motor Vehicles Act, 1988 (henceforth referred to as 'MV Act') pleading that on 23-01-2019 at 16.30 hrs., Chandra Kumar Shrivastava, son of the applicants No. 1 and 2, was proceeding from Kartala to village Rampur on his motorcycle bearing registration No. CG 13-AB/8732 (for brevity, 'offending vehicle') to pick up respondent No. 1, who was working as a Shiksha Karmi, at his request. When he reached near a brick kiln on the roadside of Badmar Aam Road, village Badmar, an animal suddenly came near the motorcycle, as a result of which he lost control over the vehicle and dashed against a Mahua tree standing on the roadside. He sustained

serious injuries on his neck, chest and other parts of the body and subsequently succumbed to the injuries sustained in the accident. Upon receiving information regarding the incident, Police Station Kartala registered Crime No. 06/2019 under Section 304-A of the Indian Penal Code. At the time of the accident, the deceased was aged about 19 years and was earning a monthly income of ₹3,300/- as a labourer. Respondent No. 1 was the owner of motorcycle bearing registration No. CG 13-AB/8732, which was being driven by the deceased at the time of the accident, whereas respondent No. 2 was the insurer of the said vehicle. The deceased was the sole breadwinner of the family. On account of his untimely death, the claimants were deprived of his income, love and affection. Accordingly, the claimants prayed for an award of compensation of ₹50,56,000/- along with interest at the rate of 18% per annum on account of the death of the deceased in the motor accident.

3. Respondent No. 1/non-applicant No. 1, being the owner of the motorcycle, filed his reply to the claim application, stating that he was working as a Lecturer at Government High School, village Botli, Tahsil Kartala, and that the deceased, Chandra Kumar Shrivastava, was a frequent visitor to his house. It was pleaded that, in his absence, the deceased, without his consent, took the keys of the vehicle parked at his house by stating that he had some urgent work. Subsequently, respondent No. 1 came to know that the vehicle had met with an accident and that Chandra Kumar Shrivastava had died. According to respondent No. 1, the deceased died due to his own rash and negligent driving and the claimants had raised an exaggerated claim

for compensation. It was further stated that on the date of the incident, respondent No. 1 had neither asked the deceased to drive the vehicle to his school nor personally handed over the vehicle to him. The deceased was not employed by respondent No. 1, nor was he being paid any monthly salary of ₹3,300/-. It was also stated that the father of the deceased had prohibited him from driving the vehicle, but despite such prohibition, the deceased drove the vehicle and met with the accident. The accident occurred due to the rash and negligent driving of the deceased, resulting in his death. In this regard, a case under Section 304-A of the IPC was registered against the deceased at Police Station Kartala vide Crime No. 06/2019, which was subsequently closed on 27-02-2019 vide Closure No. 01/2019. It was further stated that, on the date of the incident, motorcycle bearing registration No. CG 13-AB/8732 was owned and possessed by respondent No. 1 and was insured with non-applicant No. 2 for the period from 06-07-2018 to midnight of 05-07-2019. On these grounds, it was pleaded that the insurance company was liable to satisfy the claim and that the claim application against non-applicant No. 1 deserved to be dismissed with costs.

4. Respondent No. 2/non-applicant No. 2/insurance company refuted the averments made in the claim application and also raised its defence, stating that the deceased was driving the insured vehicle after having borrowed the same from the insured, and, therefore, he could not be treated as a third party. It was further pleaded that no premium had been paid for covering the risk of the deceased in such capacity. The claimants had also failed to produce any documentary evidence

regarding the age and income of the deceased and had preferred a highly exaggerated claim on fictitious grounds. It was further stated that at the time of the accident, the deceased did not possess a valid and effective driving licence. Despite having knowledge of the same, non-applicant No. 1 had permitted the deceased to drive the vehicle, thereby committing a breach of the terms and conditions of the insurance policy. Consequently, the insurance company was not liable to indemnify the owner or pay any compensation to the claimants. On these grounds, dismissal of the claim application against non-applicant No. 2 was sought.

5. Learned counsel appearing for the appellants/claimants submits that the learned Tribunal has erred in rejecting the claim application filed by the appellants. He further submits that the learned Tribunal has failed to appreciate that, in his entire pleadings, respondent No. 1, who is the registered owner of the motorcycle, has nowhere stated that the deceased had borrowed the motorcycle from him. He further submits that the insurance company had received premium towards the risk of the owner and, therefore, the risk of the deceased was covered under the insurance policy. Accordingly, it is submitted that the appellants are entitled to the compensation claimed by them.
6. Learned counsel appearing for respondent No. 2/insurance company, while supporting the impugned award, submits that the learned Tribunal has passed a well-reasoned and justified award, which does not call for any interference by this Court.
7. None appears for respondent No. 1, though Vakalatnama has been

filed on his behalf.

8. Heard learned counsel for the parties and perused the material available on record.
9. Main question, which arises for consideration in this appeal is, whether deceased would fall under the category of owner ?
10. Before discussing above point, it would be appropriate to quote relevant portion of the MV Act, which is as under :-

“2. Definitions In this Act, unless the context otherwise requires,—

(30) “owner” means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;”

11. In the light of above legal provision, the appellants/claimants have to establish the status of the deceased as an owner. They have pleaded in their claim petition that deceased was appointed as paid driver of the motorcycle bearing registration No. CG 13 AB 8732 by its owner, but the same could not be established by adducing cogent evidence. Learned Tribunal assigned reason while disbelieving the plea of claimant that, the deceased did not have valid and effective driving licence and no owner would appoint a person his driver, who does not have valid driving licence. The above finding of learned Tribunal appears to be just and proper, because father of the deceased Shravan Kumar Srivas himself has admitted in his statement that, his

son did not have valid and effective driving licence. Therefore, the status of the deceased was not of a rider of the motorcycle, who was appointed by the owner of the offending vehicle and he cannot be said to be an authorized person for riding the offending vehicle.

12. In the case of **Ningamma and Ors Vs. United India Insurance Company Ltd. [(2009) 13 SCC 710]**, the deceased had borrowed the motorcycle from its owner, wherein the Hon'ble Supreme Court held that in para 21 as under :-

“21. In our considered opinion, the ratio of the decision in ***Oriental Insurance Co. Ltd. case [(2008) 5 SCC 736]*** is clearly applicable to the facts of the present case. In the present case, the deceased was not the owner of the motorbike in question. He borrowed the said motorbike from its real owner. The deceased cannot be held to be an employee of the owner of the motorbike although he was authorised to drive the said vehicle by its owner and, therefore, he would step into the shoes of the owner of the motorbike. We have already extracted Section 163-A of the MVA hereinbefore. A bare perusal of the said provision would make it explicitly clear that persons like the deceased in the present case would step into the shoes of the owner of the vehicle.”

13. Above decision of **Ningamma (supra)** was later followed in the case of **Ram Khiladi and ors. Vs. United India Insurance Com [(2020) 2 SCC 550]**, in which it has been held in para 9 and 9.5 as under :-

“9. The short question which is posed for consideration of this Court is whether, in the facts and circumstances of the case and in a case where the driver, owner and the insurance company of another vehicle involved in an accident and whose driver was negligent are not joined as

parties to the claim petition, meaning thereby that no claim petition is filed against them and the claim petition is filed only against the owner and the insurance company of another vehicle which was driven by the deceased himself and the deceased being in the shoes of the owner of the vehicle driven by himself, whether the insurance company of the vehicle driven by the deceased himself would be liable to pay the compensation under Section 163-A of the Act? Whether the deceased not being a third party to Vehicle No. RJ 02 SA 7811 being in the shoes of the owner can maintain the claim under Section 163-A of the Act from the owner of the said vehicle?

“9.5. It is true that, in a claim under Section 163-A of the Act, there is no need for the claimants to plead or establish the negligence and/or that the death in respect of which the claim petition is sought to be established was due to wrongful act, neglect or default of the owner of the vehicle concerned. It is also true that the claim petition under Section 163-A of the Act is based on the principle of no-fault liability. However, at the same time, the deceased has to be a third party and cannot maintain a claim under Section 163-A of the Act against the owner/insurer of the vehicle which is borrowed by him as he will be in the shoes of the owner and he cannot maintain a claim under Section 163-A of the Act against the owner and insurer of the vehicle bearing Registration No. RJ 02 SA 7811.....”.

14. Considering the proposition of Section 163-A of the MV Act, Hon'ble Apex Court interpreted that the person like the deceased in the instant case, would step into the shoes of the owner of the vehicle and when the driver gets the status of owner of the offending vehicle, then the owner could not himself be the recipient of the compensation.
15. For the foregoing reason, no error is found in the impugned judgment

passed by the Tribunal by dismissing the claim petition under Section 163-A of the MV Act and the same is hereby confirmed.

16. In view of above discussion, the instant misc. appeal being devoid of merit, deserves to be and is hereby dismissed.

SD/-

(Santosh Sharma)

Judge

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