

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 51 of 2017**

1. Smt. Gangamati W/o Late Ganesh Ram, aged About 26 Years.
 2. Arjun Ram S/o Late Ganesh Ram, Aged About 8 Years Minor Through Natural Guardian Mother Smt. Gangamati.
 3. Ajay Ram S/o Late Ganesh Ram, Aged About 7 Years Minor Through Natural Guardian Mother Smt. Gangamati.
 4. Jainandan Ram S/o Late Budaga Ram, Aged About 60 Years.
 5. Smt. Dilmet W/o Jainandan, Aged About 60 Years
- All are R/o Village- Lahpatara, P.S. Lakhanpur, Tahsil-Ambikapur, Distt. Surguja, Chhattisgarh.

---- Appellants**Versus**

1. Vijay Kumar Gadhwal S/o Bagar Ram, aged about 30 Years R/o Kharsiyanka Ambikapur Distt. Surguja, Chhattisgarh.
2. The Branch Manager, United India Insurance Company Ltd. Branch Office Brahmroad Near Kumkum Hotel Ambikapur Distt. Surguja, Chhattisgarh.

---- Respondents

For Appellants	:	Shri Abhishek Pandey, Advocate
For Respondent No.2	:	Shri Ghanshyam Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/08/2017**

1. Present is an appeal under section 173 of the Motor Vehicle Act preferred by the claimant assailing the award dated 22/08/2016 passed by the 1st Additional Motor Accident Claim Tribunal Ambikapur, District Surguja (C.G) in Motor Accident Claim Case No.44/2011.
2. Vide the said impugned award, the Tribunal has rejected claim application of the claimant on the ground that, accident arose when the vehicle driving by the deceased met with an accident with some unknown vehicle as claimed by the claimant. The deceased had died on the spot and F.I.R. was also lodged at police station Ambikapur and the Merg Intimation in this regard was also lodged against unknown vehicle.
3. Since there was no offending vehicle reflected in the claim case against whom rash and negligent driving could be attributed and the fact that appellant in the instant case met with an accident while he himself was driving motorcycle, the Tribunal has rejected claim case as under no circumstances Respondent No.1 could be held responsible for the accident

occurred and the Insurance Company to indemnify Respondent No.1 under such circumstance.

4. Be that as it may this court does not find any strong case for interfering with the award reserving the liberty of appellant if he is so advised to approach the Tribunal by moving fresh application under Section 163-A of the Motor Vehicle Act subject to the maintainability of the said application, the present appeal is disposed off. Respondent shall also have the liberty of raising all possible objection so far as the merits and maintainability of such a claim if any is concerned.
5. With the aforesaid liberty, present appeal stands disposed off.

Sd/-
(P. Sam Koshy)
JUDGE