

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.38 of 2017**

1. Sangita W/o Late Anil Ekka, Aged About 23 Years Occupation- House Wife, R/o Village- Nan Damali, P.S.- Darima, District Surguja, Chhattisgarh
2. Kumari Sneha D/o Late Anil Ekka, Aged About 2 Years Minor Through Natural Guardian (Mother) Sangita W/o Late Anil Ekka, R/o Village- Nan Damali, P.S.- Darima, District Surguja, Chhattisgarh
3. Ghundi Ekka S/o Late Genda, Aged About 50 Years Occupation- Agriculturist, R/o Village- Nan Damali, P.S.- Darima, District Surguja, Chhattisgarh(Claimants)

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1. I.C.I.C.I. Lombard General Insurance Company Limited Through: The Branch Manager, Branch Office- Commercial Building, Devendra Nagar Raipur, P.S. & Tehsil- Raipur, District- Raipur, Chhattisgarh(Insurer Of The Offending Vehicle)
2. Pitrus Kindo S/o Shri Julious Kindo, Aged About 25 Years Occupation- Agriculturist, R/o Village- Turwaama, Post- Pakargaon, P.S. & Tehsil- Pathalgaon, District- Jashpur, Chhattisgarh(Owner Of The Offending Vehicle)
3. Smt. Manmati W/o Ghundi Ekka, Aged About 48 Years Occupation- Housewife, R/o Village Nan Damali, P.S. Darima, District Surguja, Chhattisgarh(Claimant No.4)

---- Respondents

For appellants	: Shri Rishi Sahu, Advocate
For respondents	: Not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****28.02.2017**

Heard the matter finally at the motion stage itself.

2. As per the facts, the appellants are the Legal representatives of deceased Anil Ekka. Anil Ekka was travelling along with one Robert Kindo, who was driving the motor cycle bearing Registration No.CG15

UB 5377. As per the case of the claimants/appellant,s the said Robert Kindo drove the motor cycle rashly and negligently, committed accident and in the said accident Anil Ekka succumbed to the injuries. The claimants had filed MACC No.49/15 against the insurance company of the said vehicle and the owner of the said motor cycle.

3. The Court below vide award dated 03.10.16 held that death of said Anil Ekka was proved but it is not proved that he died on account of rash and negligent driving of the motor cycle driven by Robert Kindo.

4. As per para 11 & 12 of the aware and Ex-P/1- First Information Report goes to show that the motor cycle was hit by unknown vehicle and in the said accident Anil Ekka and Robert Kindo died. On the basis of the first information report Crime No.16/14 under Section 304A of the IPC has been registered against unknown vehicle/driver. Also the applicant witness No.1 Ghundi Ekka (A/3) admitted in the cross examination that his son and Robert Kindo were in the motor cycle and an unknown vehicle hit the motor cycle and the accident occurred.

5. Upon consideration of the entire material, the trial Court has dismissed the claim case.

6. On due consideration, I do not find any reason to take a different view in the matter. The trial court has rightly dismissed the claim. Consequently, the instant appeal is dismissed at the motion stage itself as it is not maintainable.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE