

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 321 of 2012**

1. Sangita @ Chandrika Bai W/o late Pavan Singh, aged about 26 years
2. Durgesh S/o late Pavan Singh, aged about 7 years
3. Rupesh S/o late Pavan Singh, aged about 5 years
4. Rupa D/o late Pavan Singh, aged about 2 years

Appellant No. 2 & 4 are minor represented through their mother Sangita @ Chandrika Bai W/o late Pavan, aged about 26 years
 All R/o village Suidhar, Tahsil Kota, District Bilaspur (CG)

---- Appellants**Versus**

Govind Kumar Gandharv S/o late Ghasiram, aged about 23 years, occupation Khalasi in Indian Railway, R/o in front of Railway Station Salbahra, Gaurela, P.S. Gaurela, Tahsil Pendra, District Bilaspur (CG)

---- Respondent

For Appellants	:	Smt. Kiran Jain, Advocate
For Respondent	:	Shri A. L. Singroul, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****23/02/2018**

Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act. The challenge in the present appeal is to the order dated 13.10.2011 passed by the 2nd Additional Motor Accident Claims Tribunal, Bilaspur (CG) in Claim Case No.9/2011. Vide the impugned order, the Tribunal has rejected the claim application of the claimants under Section 163A of the MV Act.

2. Facts of the case are that the deceased Pavan Singh on the fateful day i.e. 22.05.2009 while travelling on a motorcycle belonging to the respondent met with an accident when his motorcycle got dis-balanced and hit a tree on

the road side, on account of which he sustained grievous injuries to which he later succumbed. The legal representatives of the deceased filed a claim application under Section 163A of the MV Act which stood rejected on the ground that the claimants have not been able to show any negligence on the part of the respondent so also they have not been able to show that the deceased was driving the vehicle on the date of accident at the instance of the respondent.

3. Even if it is presumed that on the date of accident the deceased had borrowed the vehicle from the respondent and met with an accident, even then the deceased would step into the shoes of the owner and he for all practical purposes would be treated as owner and the owner cannot claim compensation for an accident which arose from his own negligence for which no other person was responsible.

4. Under the circumstances, this Court does not find any strong case made out by the appellants calling for an interference with the finding given by the Tribunal while rejecting the claim application.

5. Thus, the appeal being devoid of merit stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE