BHOLA NATH KHATAI
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CGHC010135072025 2026:CGHC:47101

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 905 of 2025

1 - Ganga Bai Koshale W/o Late Tosham Koshale Alias Suraj Koshale Aged About 30 Years R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

2 - Anamika Koshale D/o Late Tosham Koshale Alias Suraj Koshale Aged About 8 Years (Minor Through Her Natural Guardian Mother Ganga Bai Koshale), R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

3 - Harsh Koshale S/o Late Tosham Koshale Alias Suraj Koshale Aged About 5 Years (Minor Through His Natural Guardian Mother Ganga Bai Koshale), R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

4 - Nilkanth Koshale S/o Shri Daydas Koshale Aged About 46 Years R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

5 - Niramala Koshale W/o Shri Nilkanth Koshale Aged About 44 Years R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

6 - Priyanka Koshale D/o Shri Nilkanth Koshale Aged About 18 Years R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

7 - Samir Kumar Koshale S/o Shri Nilkanth Koshale Aged About 15 Years (Minor Through His Natual Guardian Father Shri

Nilkanth Koshale), R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

8 - Dinesh Koshale S/o Shri Nilkanth Koshale Aged About 12 Years (Minor Through His Natual Guardian Father Shri Nilkanth Koshale), R/o Village - Chingariya, Post Office - Kanki, Police Station - Kharora, District - Raipur (C.G.)

... Appellant(s)

versus

1 - Umesh Jangade S/o Shri Premlal Jangade R/o Village - Bhejaridih, Post Office - Bhaisa, Police Station - Kharora, District - Raipur (C.G.), (Owner Of Motorcycle No. C.G.-04 N.G.-8575)

2 - Tata A.I.G. General Insurance Co. Ltd. Through - Divisional Manager, 2nd Floor, House No. 9/1, Behind Khandelwal Motors, M.G. Road, Adjoining Treasure 1 Land Mall, Indore (M.P.), (Insurance Company Of Motorcycle No. C.G.-04 N.G.-8575)

... Respondent(s)

For Appellants	**:**	Mr. Rakesh Kumar Thakur, Adv.
For Respondent No.2	**:**	Ms. Harneet Kaur Khanuja, Adv.

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order On Board

16/11/2026

1. Heard on I.A. No.01/2025, under Section 5 of the Limitation Act, for condonation of delay in filing the appeal.

2. Upon due consideration, I.A. No. 01 is allowed and the delay of 417 days in filing the appeal stands condoned.

3. Heard on admission.

4. This appeal has been preferred by the appellants/claimants under Section 173 of the Motor Vehicles Act, 1988, calling in question the legality and correctness of the award dated 01.11.2023 passed by the First Additional Motor Accident Claims Tribunal, Raipur (C.G.), in Claim Case No.336/2022, whereby the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988, seeking compensation on account of the death of Tosham Koshale @ Suraj Koshale in a motor vehicle accident, has been dismissed.

5. The Claims Tribunal dismissed the claim petition primarily on the ground that the motorcycle bearing registration No. CG 04 NG 8575, involved in the accident, was owned by respondent No.1, Umesh Jangade, and insured with respondent No.2. The deceased had borrowed the said motorcycle from its owner and was himself driving the same at the time of the accident. Accordingly, the Tribunal held that the deceased had stepped into the shoes of the owner of the vehicle and, therefore, his legal representatives were not entitled to maintain a claim petition under Section 163-A of the Motor Vehicles Act against the owner and insurer of the said vehicle.

6. The aforesaid issue is no longer res integra. The Hon'ble Supreme Court, in **Ningamma and Another v. United India Insurance Co. Ltd., (2009) 13 SCC 710**, and subsequently

in **Ramkhiladi and Another v. United India Insurance Company and Another, (2020) 2 SCC 550**, has categorically held that where a person borrows a vehicle from its owner and meets with an accident while driving the same, he steps into the shoes of the owner. Consequently, his legal representatives cannot maintain a claim petition under Section 163-A of the Motor Vehicles Act against the owner and insurer of the said vehicle.

7. In the present case, the accident occurred on 25.10.2021. The motorcycle involved in the accident was owned by respondent No.1, Umesh Jangade, and insured with respondent No.2. The insurance policy has been exhibited as Ex.D-1. The Insurance Company examined Safdar Ismail (NAW-1), who proved the insurance policy and denied the suggestion put to him on behalf of the claimants that the policy (Ex.D-1) covered the risk of the driver. It is not in dispute that the deceased had borrowed the said motorcycle from its owner and was himself driving the same at the time of the accident. In view of the aforesaid factual position and the law laid down by the Hon'ble Supreme Court in **Ningamma (supra)** and **Ramkhiladi (supra)**, the deceased had stepped into the shoes of the owner of the motorcycle. Consequently, his legal representatives are not entitled to maintain a claim petition under Section 163-A of the Motor

Vehicles Act against the owner and insurer of the said motorcycle.

8. In view of the aforesaid legal and factual position, this Court is of the considered opinion that the Claims Tribunal has committed no illegality or infirmity in dismissing the claim petition. The findings recorded by the Tribunal are in consonance with the law laid down by the Hon'ble Supreme Court. Accordingly, no ground warranting interference with the impugned award is made out.

9. Consequently, the appeal, being devoid of merit, is **dismissed** at the admission stage itself.

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE

Khatai