BHOLA NATH KHATAI
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CGHC010202102025 2026:CGHC:45778

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1154 of 2025

1 - Chaiti Yadav W/o Late Dilip Kumar Yadav, Aged About 34 Years R/o Village- Manatola, Police Station- Mohla, District Rajnandgaon, Chhattisgarh.

2 - Lomesh Kumar Yadav S/o Late Dilip Kumar Yadav Aged About 17 Years Minor Through Natural Guardian Mother Smt. Chaiti Yadav, The Appellant No.1, R/o Village- Manatola, Police Station- Mohla, District Rajnandgaon, Chhattisgarh.

3 - Bhavesh Kumar S/o Late Dilip Kumar Yadav Aged About 16 Years Minor Through Natural Guardian Mother Smt. Chaiti Yadav, The Appellant No.1, R/o Village- Manatola, Police Station- Mohla, District Rajnandgaon, Chhattisgarh.

... Appellant(s)

versus

1 - Tata A.I.G. General Insurance Co. Ltd. Through Officer In-Charge, Address- First Floor 106, 107, Walfort Ozone, Bilaspur Road, Fafadih Chowk, Raipur, P.S.- Ganj, District Raipur, Chhattisgarh. (Insurance Company Of Motorcycle No. C.G. 08 A.P. 2762)

... Respondent(s)

For Appellants	**:**	Mr. Rakesh Kumar Thakur, Advocate
For Respondent	**:**	Mr. K. P. S. Gandhi, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order On Board

29/10/2026

1. The present appeal has been preferred by the appellants/claimants under Section 173 of the Motor Vehicles Act, 1988, assailing the award dated 13.03.2024 passed by the First Additional Motor Accident Claims Tribunal, Raipur (C.G.), in Claim Case No.1289/2021, whereby the claim petition filed under Section 166 of the M.V. Act, seeking compensation on account of the death of Dilip Kumar Yadav in a motor vehicle accident, has been dismissed.

2. Learned counsel for the appellants submits that the Claims Tribunal has erred in dismissing the claim petition, particularly when the deceased was covered under the Personal Accident (PA) Cover of the insurance policy. It is, therefore, prayed that the impugned award be set aside and the appeal be allowed.

3. Per contra, learned counsel appearing for the respondent/Insurance Company supports the impugned award and submits that the Claims Tribunal has rightly dismissed the claim petition, as the insurance policy covering the vehicle in question was not in force on the date of the accident. It is, therefore, submitted that the appeal

deserves to be dismissed.

4. Heard learned counsel for the parties and perused the record of the Claims Tribunal.

5. The Claims Tribunal has dismissed the claim petition primarily on the ground that, at the time of the accident, the deceased himself was driving the motorcycle in question, which was registered in his name. Relying upon the judgments of the Hon'ble Supreme Court in Ningamma and Another v. United India Insurance Co. Ltd., (2009) 13 SCC 710, and Ramkhiladi and Another v. United India Insurance Company and Another, (2020) 2 SCC 550, along with other decisions, the Claims Tribunal held that the deceased could not be treated as a third party and, consequently, his legal representatives were not entitled to maintain a claim petition under Section 166 of the Act against the insurer of the said vehicle. The Claims Tribunal has also recorded a finding that the insurance policy (Ex.D-1) was not in force on the date of the accident and, therefore, did not provide coverage to the deceased. Accordingly, the claim petition came to be dismissed.

6. The legal position in this regard is well settled by the Hon'ble Supreme Court in **Ramkhiladi and Another v. United India Insurance Company and Another, (2020) 2 SCC 550**,

wherein, relying upon its earlier decision in **Ningamma and Another v. United India Insurance Co. Ltd., (2009) 13 SCC 710**, the Supreme Court has held that the provisions of Section 163-A of the Act cannot be invoked in respect of an accident wherein the owner of the motor vehicle himself is involved.

7. In the present case, the accident occurred on 29.09.2021. The deceased, Dilip Kumar Yadav, was himself driving the motorcycle involved in the accident and was also its registered owner. Though it has been alleged that another motorcycle dashed against the motorcycle driven by the deceased, no claim petition has been preferred against the owner and insurer of the said motorcycle. In view of the aforesaid factual position and the principles laid down by the Hon'ble Supreme Court in the decisions referred to hereinabove, the deceased cannot be treated as a third party qua the motorcycle owned and driven by him. The legal representatives of the deceased, therefore, cannot claim compensation under Section 166 of the Act against the insurer of the motorcycle owned by the deceased. The deceased, being the owner-cum-driver of the vehicle, cannot be treated as a third party for the purpose of maintaining a claim against his own insurer.

8. So far as the claim under the Personal Accident Cover is

concerned, the Insurance Company examined Safdar Ismile, its Legal Officer, as a witness. From the testimony of the said witness and the Own Damage Insurance Policy (Ex.D-1), it is evident that the policy was valid only for the period from 14.06.2020 to 13.06.2021, whereas the accident occurred on 29.09.2021. Thus, the policy had already expired much prior to the date of the accident. Consequently, in the absence of a valid and subsisting policy covering the deceased on the date of the accident, the appellants are not entitled to claim compensation under the Personal Accident Cover as well.

9. In view of the aforesaid legal and factual position, this Court is of the considered opinion that the Claims Tribunal has not committed any illegality or perversity in dismissing the claim petition. The findings recorded by the Claims Tribunal do not warrant any interference by this Court.

10. Accordingly, the appeal, being devoid of merit, is hereby **dismissed.**

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE

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