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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1363 of 2023

- Manager , The New India Insurance Company Ltd R/o Gurunanak Nagar, Durg Chhattisgarh.

... Appellant

versus

1. Kamta Singh Gaud S/o Narendra Singh Gaud Aged About 49 Years R/o Puraina, Bhilai 3, District Durg Chhattisgarh.

2. Rajkumar Gaud W/o Kamta Singh Gaud, Aged About 47 Years R/o Puraina, Bhilai 3, District Durg Chhattisgarh.

3. Ashok Das S/o Ghanshyam Das, Aged About 39 Years R/o Near Airtel Office, Ward No. 9, House No. 100 Telibandha, Ps Telibandha District Raipur Chhattisgarh.

4. Umesh Sahu S/o Manilal Sahu, Aged About 41 Years R/o Tatibandh Raipur Ps Amanaka Raipur, District Raipur Chhattisgarh.

... Respondents

For Appellant	:	Mr. Prasanjeet Dutta, Adv. on behalf of Mr. Sudhir Agrawal, Adv.
For Respondents No. 1 and 2	:	Ms. Shweta Barman, Adv. on behalf of Mr. Avinash Chand Sahu, Adv.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order On Board

07.10.2026

1) The appellant/insurance company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 calling in question the

legality, validity and correctness of the impugned award dated 29.04.2023 passed by the learned VI Additional Motor Accident Claims Tribunal, Durg in MACT Case No. 20/2020, by which the claim application of the claimants has been allowed and liability has been fastened upon the insurance company to pay the compensation amount.

2) Mr. Prasanjeet Dutta, learned counsel for appellant/ insurance company, would submit that accident had taken place on account of collision between the two vehicles, therefore, it is a case of negligence on part of the deceased driver also, therefore, the insurance company is not responsible to pay the amount of compensation.

3) Ms. Shweta Barman, learned counsel for the respondents No.1 and 2/ claimants would support the impugned award and submit that the appeal of the appellant/ insurance company is liable to be dismissed.

4) I have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the records minutely.

5) The appellant/insurance company has taken a plea that it is a case of head on collision, therefore, the deceased driver was also contributory negligent to the extent of 50%. However, this fact has not been proved as Sachin Kumar Mehra (DW-1) officer of the insurance company has been examined but he has stated that

accident had occurred due to head on collision of two vehicles, but he has also clearly stated that he was not the eye-witness, as he was not present on the place of accident and no other officer of the insurance company was present on the spot. As such, it has not been proved that the accident had occurred on account of rash and negligent driving of the deceased driver. Therefore, plea of contributory negligence has not been established. In that view of the matter, I do not find any merit in this appeal, the same is liable to be and is accordingly dismissed.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Ajinkya