CGHC010334672026 2026:CGHC:43167

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 2154 of 2026

1 - Durpati Chouhan W/o Late Basant Chouhan Aged About 38 Years R/o Village- Bijana Tangarghat P.S. And Tah. Tamnar Distt- Raigarh (C.G.)

2 - Minor Arushi Kumari Chouhan D/o Late Basant Chouhan Aged About 14 Years Through Her Natural Guardian Her Mother Durpati Chouhan W/o Late Basant Chounah Aged About 38 Years R/o Village Bijana Tangarghat P.S And Tah. Tamnar Distt- Raigarh (C.G.)

... Appellants

versus

1 - Rajesh Kumar Chouhan S/o Shri Sukhram Chouhan Aged About 28 Years R/o Village- Bijana Tangarghat P.S. And Tah, Tamnar Distt- Raigarh (C.G.) Owner Of Offending Motor Cycle Pulsar C G 13 BC - 0819,

2 - The United India Insurance Company Limited Through Branch Manager LIC Building Floor No.1 Magarpara Road Bilaspur Distt- Bilaspur Present Branch Office Address- Gaushala Para Road Above Manav Bhavan Raigarh Tah, And Distt- Raigarh (C.G.) Insurer Of Motor Cycle Pulsar C G 13 BC 0819

... Respondents

For Appellants : Mr. Alok Kumar Dewangan, Advocate.
For Respondents : None.

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

06/10/2026

1. Heard on I.A. No. 01/2026, application under Section 5 of the

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Limitation Act, 1963, read with Section 173 of the M.V. Act, 1988 for condonation of delay in filing the appeal.

2. Upon due consideration and for the reasons mentioned in the application, I.A. No. 01/2026 is allowed. Delay of 13 days in filing the appeal is condoned.

3. Also heard on admission.

4. This is claimants' appeal under Section 173 of M.V. Act against the award dated 06.05.2026 passed by the Additional Motor Accidents Claims Tribunal, Gharghoda, District - Raigarh (C.G.) in Motor Accident Claim Case No. 38/2025 whereby the claim application filed under Section 164 of the Motor Vehicles Act by the claimants has been dismissed.

5. The case of the appellants, in brief, is that the deceased Akash Chauhan, son of appellant No. 1 and brother of appellant No. 2, used to work for respondent No. 1, Rajesh Kumar Chauhan. Respondent No. 1 used to operate a fancy Manihari shop in the market and fair stalls, and in this sequence, on 09.03.2025, Akash Chauhan (deceased) had gone to the fair in village Dumarghuncha to operate the Manihari shop of his owner, respondent No. 1 Rajesh Chauhan. After operating the fair, on 10.03.2025, in the morning, Akash Chauhan was returning to his home in Bijna with his friends on the Pulsar motorcycle No. CG-13-BC-0819, when, due to a technical fault in the vehicle causing the accident, the motorcycle collided with a Parsa tree on the roadside near the pond on Tangarghat village road. As a result, the deceased sustained serious injuries and died on the spot.

6. As against compensation of Rs.53,10,000/- claimed by the legal heirs of the deceased by filing a claim application under Section 164 of the

Motor Vehicles Act (henceforth 'the Act') for the death of Akash Chouhan, aged about 21 years, in the motor accident on 10.03.2025. The Tribunal, on due consideration of the evidence, held that the accident had occurred due to a mechanical fault of the motorcycle bearing registration No. CG-13-BC-0819, owned by Rajesh Chouhan/respondent No. 1, by its rider/deceased. Therefore, considering the provisions of Section 164 of the Motor Vehicles Act, the claim petition filed under Section 164 of the Motor Vehicles Act by the legal heirs of the deceased is not maintainable and is dismissed the claim application holding that the claimants are not entitled to compensation as the deceased was not a third party to the said vehicle.

7. Learned counsel appearing for the appellants/claimants would submit that the learned Tribunal has erred in rejecting the claim petition filed under Section 164 of the M.V. Act because the motorcycle was insured with the respondent No. 2. The learned Claims Tribunal failed to appreciate that there was a technical fault in the motorcycle when the deceased was driving the offending vehicle, by which the accident took place. He further submits that the deceased Akash Chouhan was working under respondent No. 1/owner of the motorcycle and had been sent by him for running his Manihari/Fancy shop at village Dumardhucha, and therefore the rejection of the claim petition is not just and proper. As such, the appeal may be allowed, and proper compensation may be awarded in favour of the claimants.

8. I have heard learned counsel for the appellant and perused the record of the Tribunal including award impugned.

9. The Hon'ble Supreme Court in the matter of **Ramkhiladi and**

another vs. United India Insurance Company and another, reported in **(2020) 2 SCC 550** wherein the Supreme Court, relying upon its own case rendered in the matter of **Ningamma v. United India Insurance Co. Ltd.**, reported in **(2009) 13 SCC 710**, has specifically observed and held that the provisions of Section 163-A of the Act cannot be said to have any application with regard to an accident wherein the owner of the motor vehicle himself is involved. Para 9.4 is relevant for the purpose, which is reproduced as under:

> **"9.4.** An identical question came to be considered by this Court in Nigamma. In that case, the deceased was driving a motorcycle which was borrowed from its real owner and met with an accident by dashing against a bullock cart i.e. without involving any other vehicle. The claim petition was filed under Section 163-A of the Act by the legal representatives of the deceased against the real owner of the motorcycle which was being driven by the deceased. To that, this Court has observed and held that since the deceased has stepped into the shoes of the owner of the vehicle, Section 163-A of the Act cannot apply wherein the owner of the vehicle himself is involved. Consequently, it was held that the legal representatives of the deceased could not have claimed the compensation under Section 163-A of the Act. Therefore, as such in the present case, the claimants could have even claimed the compensation and/or filed the claim petition under Section 163-A of the Act against the driver, owner and insurance company of the offending vehicle i.e. motorcycle bearing Registration No. RJ 29 2M 9223, being a third party with respect to the offending vehicle. However, no claim under Section 163-A was filed against the driver, owner and/or insurance company of the motorcycle bearing Registration No. RJ 29 2M 9223. It is an admitted position that the claim under Section 163-A of the Act was only against the owner and the insurance company of the motorcycle bearing Registration No. RJ 02 SA 7811 which was borrowed by the deceased from the opponent-owner Bhagwan Sahay. Therefore, applying the law laid down by this Court in Ningamma and as the deceased has stepped into the shoes of the owner of the vehicle bearing Registration No. RJ 02 SA 7811, as rightly held by the High Court, the claim petition under Section 163-A of the Act against the owner and insurance company of the vehicle bearing Registration No. RJ 02 SA 7811 shall not be maintainable."

10. In the present case, the deceased was not a third party to the offending motorcycle, but rather its rider and driver. The motorcycle had been borrowed by the deceased from Respondent No. 1 (the

owner). Furthermore, a perusal of the impugned award reveals that the deceased was driving the vehicle that caused the accident at the relevant time. Crucially, no evidence has been presented to establish that he was employed by the owner of the vehicle, nor that the incident occurred while he was driving the said vehicle in the course of such employment.

11. Having applied the principles laid down by the Hon'ble Supreme Court in the above-referred matter to the present case, it is held that the claim petition filed under Section 164 of the Act is not maintainable. The appeal filed by the appellants, on its face, is devoid of merit and the same is accordingly liable to be and is hereby **dismissed** at the admission stage itself.

12. In the facts and circumstances of the case, there shall be no order as to costs.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

H. L. Sahu