CGHC010404912026 2026:CGHC:45532

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 2418 of 2026

1 - Chandan Kumar S/o Jainarayan Singh Aged About 43 Years R/o House No. 601 Mahamaya Apartment, Panchsheel Nagar East, Near Jyoti School, Charauda Bhilai, District Durg Chhattisgarh.

2 - Kavita Yadav W/o Chandan Kumar Aged About 42 Years (Wrongly Mention D/o In Impugned Order) R/o House No. 601 Mahamaya Apartment, Panchsheel Nagar East, Near Jyoti School, Charauda Bhilai, District Durg Chhattisgarh.

3 - Archi D/o Chandan Kumar Aged About 19 Years R/o House No. 601 Mahamaya Apartment, Panchsheel Nagar East, Near Jyoti School, Charauda Bhilai, District Durg Chhattisgarh **... Appellants**

versus

1 - Asif Beg S/o Alam Beg Address No. 1 Quarter No. 199, Police Line Power House Camp 02, Bhilai, District Durg Chhattisgarh Address No. 2 Through M L Tikariha, H.M.T. Square, Handipara Raipur, Police Station - Azad Chowk, District Raipur Chhattisgarh (Owner of Car No. C.G. 04 H.B. 0604).

2 - S.B.I. General Insurance Co. Ltd. *through* Officer In Charge S.B.I. General Insurance Co. Ltd. 4th Floor, Pujari Chamber Pachpedi Naka, Raipur, Tehsil And District Raipur Chhattisgarh (Insurer Of Car No. C.G. 04 H.B. 0604) **... Respondents**

For the appellants	**:**	Mr. Rakesh Kumar Thakur, Advocate
For the respondents	**:**	None

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order on Board
(28.10.2026)

1. Heard on I.A.No. 1/2026 filed under section 5 of the Limitation Act. There is delay of 60 days in filing the appeal.

For the reasons stated in the application which is supported by appellant no.1, delay of 60 days is condoned. Accordingly, I.A. No.1 is allowed.

Heard on admission.

2. The claimants/appellants have filed this appeal under Section 173 of the Motor Vehicles Act against the award dated 08.05.2026 passed by the learned XI Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Case No. 814.2023 whereby the application filed u/s 164 of the Motor Vehicles Act was dismissed as not maintainable.

3. Brief facts of the case pleaded by the claimants are on the date of accident 22.05.2023 deceased Ishan Kumar was driving the Car bearing No.C.G. 04-HB-0604 owned by one Asif Baig (respondent no.1). On the way, the vehicle lost the control and hit the road side divider, due to which, he fell down from the Car and sustained grievous injuries. He was immediately brought to the Hospital where he died on 24.05.2023 during treatment. Appellants 1 & 2 are parents and appellant no.3 is brother of deceased. They being legal heirs have filed claim application u/s 164 of the Motor Vehicles Act.

4. 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. As such, the appeal may be allowed, and proper compensation may be awarded in favour of the claimants.

5. At para 15 of the impugned award the learned Tribunal discussed the evidence of claimant-witness Kavita Yadav and observed that no document was produced to show that deceased was employed under the control of respondent no.1, the owner of the offending Car. On the basis of Panchnama (Ex.P-6), it has further observed that at the time of accident, deceased was coming from Amity University to Raipur along with his friends and he himself was driving the Car. The deceased was driving the vehicle in the capacity of owner of vehicle, as such he has stepped into the shoes of respondent no.1 and the deceased does not fall in the category of third party. Having thus considered, the Tribunal held that the claim petition filed under Section 164 of the Motor Vehicles Act by the legal heirs of the deceased is not maintainable and dismissed the claim application.

6. In the matter of ***Ramkhiladi and another vs. United India Insurance Company and another***, reported in (2020) 2 SCC 550 Hon'ble the Supreme Court held that when a person borrows a vehicle from its owner and meets with an accident while driving it, he legally steps into the position of the owner. In the said case, 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.

7. In the case on hand, the deceased was driving the Car which was borrowed from respondent no.1 and met with accident by hitting against a road side divider. Therefore, he does not fall in the category of third party as he stepped into the shows of the owner.

8. In view of the principles laid down by the Hon'ble Supreme Court in

the above referred matters, the Tribunal has rightly held that the claim petition filed under Section 164 of the Act, 1988 is not maintainable and rejected the same. Therefore, I do not find any merit in this appeal warranting interference in the impunged award.

9. The appeal being devoid of merit is hereby **dismissed** at the admission stage.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

Rao