CGHC010455032024 2026:CGHC:45477

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 13 of 2025

1 - Kailash Kumar Dubey S/o Late Kamta Prasad Dubey Aged About 62 Years R/o Mig - 8 Maruti Vihar Mohba Bazar Kota Road Police Station Aamanaka District - Raipur (C.G.) (Claimant)

... Appellant

versus

1 - Vivek Dubey S/o Shri Kailash Kumar Dubey Aged About 32 Years R/o Mig - 8 Maruti Vihar Mohba Bazar Kota Road Police Station Aamanaka District - Raipur (C.G.) (Non - Claimants) (Registered Owner Of Accidental Vehicle No. C.G. - 04 Ha- 5028)

2 - The New India Insuarance Company Ltd. By Branch Manager Second Floor Commericial Complex Behind Lic Office, Pandri Raipur District - Raipur (C.G.) (Insurer Of Accidental Vehicle No. Cg- 04 Ha - 5028

... Respondents

For Appellant	:	Mr. Vimal Pathak, Advocate.
For Respondent No. 1	:	None.
For Respondent No. 2	:	Mr. Dashrath Gupta, Advocate.

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

28/10/2026

1. Heard on I.A. No. 01/2024, application for condonation of delay.
2. Upon due consideration and for the reasons stated in the application, I.A. No. 01/2024 is allowed. Delay of 54 days in

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filing the appeal is condoned.

3. Also heard on admission.

4. This is claimant’s appeal under Section 173 of M.V. Act against the award dated 31.07.2024 passed by the 14th Additional Motor Accidents Claims Tribunal, Raipur, District - Raipur (C.G.) in Motor Accident Claim Case No. 321/2023, whereby the claim application filed under Section 163-A of the Motor Vehicles Act has been allowed only to the extent of contractual liability (i.e. Rs. 1,00,000/-) of the Insurance Company under the policy.

5. In brief, the appellant's case is that on 22.03.2022, at about 5:00 pm, the deceased, Rajat Kumar Dubey, was driving his car, No. CG-04-HA-5028, owned by respondent No. 1, with his mother Kunti Dubey seated in the pillion, from Bilaspur to Raipur. Near the village Bemta, an unknown vehicle struck the car, causing it to fall off the road and overturn, resulting in the accident. As a result, Kunti Dubey, a pillion rider, died on the spot due to severe head and body injuries. A report was lodged, and Crime No. 129/2022 was registered.

6. The legal heir of the deceased filed a claim application under Section 163-A of the Motor Vehicles Act (hereinafter referred to as "the Act") seeking compensation of Rs. 20,50,000/- for the death of Kunti Dubey in a motor accident on 22.03.2022. Upon due consideration of the evidence, the Tribunal held that, due to the accident that occurred on 22.03.2022 involving a car bearing registration No. CG-04-HA-5028, Kunti Bai, who was sitting in the vehicle, died, and the driver, Rajat Kumar Dubey

(brother of the owner), also died in the accident. The vehicle was owned by respondent No. 1, Vivek Dubey (son of the deceased), and insured by respondent No. 2, the Insurance Company. The Tribunal further found that Deputy Manager Mr. Mahesh M.B. Acharya (NAW-1) clarified in para 3 of his statement that the policy Ex.D-1 provided that a premium of Rs. 50 per person was received for personal accidents for five persons travelling in the insured vehicle. The insurance company's maximum liability for the death of a passenger in the accident is Rs. 1,00,000/- per person. This information is provided in Ex. D-1, Sections B to B of the policy. Since the deceased, Kunti Dubey, was in the car at the time of the accident, her son, Rajat Dubey, was driving the vehicle, and respondent No. 1 is also the deceased's son, the deceased would not be considered a third party. Consequently, compensation of Rs. 1,00,000/- (Rupees Two Lakhs) has been awarded to the claimant/appellant under the said policy.

7. Learned counsel appearing for the appellant/claimant would submit that the deceased was travelling in the offending vehicle at the time of the accident, considering the deceased as a third party, the compensation awarded by the claims tribunal may be enhanced suitably.

8. Learned counsel appearing for respondent No. 2, on the other hand, supported the impugned award and submitted that the Tribunal has rightly awarded the compensation of Rs. 1 lakh, which was a contractual liability under the policy (Ex.D-1) for the passenger.

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

10. In the case in hand, the deceased was not a third party to the offending vehicle/car but was the passenger of the offending vehicle. The learned Claims Tribunal considered the contractual liability of the company under the policy (Ex.D-1) and awarded an amount of Rs. 1,00,000/- towards coverage of the risk to the passenger.

11. In view of the above discussion, this Court does not find any basis to hold the deceased as a third party for the offending vehicle. Hence, the appeal, being devoid of merit, is 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