2026:CGHC:8746

2026:CGHC:8746

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 472 of 2018

Bajaj Allianz General Insurance Company Limited Registered Office First Floor, G.E.Plaza, Airport Road, Yerwada, Pune (Maharashtra) Pin 411006, Through Branch Manager, Bajaj Allianz General Insurance Company Limited, Branch Office Shiv Mohan Bhawan, Vidhan Sabha Road, Pandri, Raipur, District Raipur, Chhattisgarh (Insurer)

--- **Appellant(s)**

versus

1 - Smt. Usha Devi W/o Heeralal Ratnakar, Aged About 45 Years, Occupation Housewife, R/o Chopda Colony, Vishrampur, Thana Vishrampur, District Surajpur, Chhattisgarh (Claimant)

2 - Heeralal S/o Late Chheduram, Aged About 48 Years, Occupation Service, R/o Chopda Colony, Vishrampur, Thana Vishrampur, District Surajpur, Chhattisgarh (Owner Of Hundai Car No. C.G. 15-C.Z./6809)

--- **Respondent(s)**

MAC No. 132 of 2018

Smt.Usha Devi W/o Heeralal Ratnakar, Aged About 45 Years, Occupation - Housewife, R/o Chopra Colony Vishrampur, P.S. - Vishrampur, Distt. Surajpur (Chhattisgarh)

---**Appellant(s)**

Versus

2026:CGHC:8746

1 - Heeralal S/o Late Chhedu Ram, Aged About 48 Years, Occupation - Service, R/o Chopra Colony, Vishrampur, P.S. - Vishrampur, Distt. - Surajpur (Chhattisgarh)

2 - Branch Manager, Bajaj Allianz Insurance Company Ltd. Registered Office 1st Floor G.E. Plaza Airport Road Yerwada Punne (Maharstra) Pin 411006 Through Branch Manager Bajaj Allianz Insurance Company Ltd. Branch Office Shivmohan Bhawan, Vidhansabha Road, Pandari, Raipur, Distt. Raipur (Chhattisgarh)

--- **Respondent(s)**

(Cause title downloaded from CIS Periphery)

For Claimant	:	Ms. Akansha Vishwakarma, Advocate on behalf of Mr. AN Pandey, Advocate
For Insurance Company	:	Mr. Sangeet Kumar Kushwaha, Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

18/02/2026

1. The decision rendered in this MA(C) No.132 of 2018 shall also govern disposal of other connected appeal being MA (C) No.472 of 2018, as both the appeals arise out of the same impugned award and also arise out of the same accident.
2. This Appeal {MA(C) No.132 of 2018} is filed by the appellant/claimant under Section 173 of the Motor Vehicles Act, 1988 (for short "the Act") against the award dated 13.10.2017 passed by the Motor Accident Claims Tribunal, Ambikapur District Sarguja (CG) in Motor Accident Claim Case No.81/2017.
3. By the impugned award, the Tribunal partly allowed the claim petition filed by the claimant under Section 163-A of the Act and awarded a total sum of Rs.4,79,700/- by way of compensation to

2026:CGHC:8746

the claimant for the death of deceased – Raju Kumar Ratnakar in a vehicular accident

4. Briefly facts of the case are that on 13.1.2017, Raju Kumar Ratnakar along with his acquaintances Dev Singh, Smt. Kanjalo Dewangan and Bharat Dewangan were travelling in a car (offending vehicle) from Gram Boda to Vishrampur. Respondent No.1 is the registered owner of the car and father of deceased – Raju Kumar Ratnakar. When they reached the vicinity of Village Jarhadih, the steering of the car suddenly failed, causing the vehicle to loss control and collide with a tree. Raju Kumar Ratnakar and Smt. Kanjalo Dewangan succumbed to the injuries sustained by them in the said accident and Bharat Dewangan and Dev Singh were taken to the District Hospital, Ambikapur. It is this event, which gave rise to filing of the claim petition by the claimant, who is the legal representative of late Raju Kumar Ratnakar, under Section 163-A of the Act, out of which, this appeal arises, claiming compensation for his death. It was stated that deceased Raju Kumar Ratnankar was a bachelor aged about 25 years. He worked as a Labour as well as Driver and earned Rs.3300/- per month.

5. Respondents contested the claim. Parties adduced evidence. The Tribunal by the impugned award partly allowed the claim petition. It held that the deceased's monthly income was Rs.3300/- and yearly income was Rs.39,600/-. The Tribunal then deducted 1/3rd i.e. 13,200/- towards his personal expenses out of his yearly income {Rs.39600 – Rs.13,200 = Rs.26,400/-) for

2026:CGHC:8746

working out the dependency and then, by applying multiplier of 18 (Rs.26,400 x 18) , awarded a sum of Rs.4,75,200/- to the claimant. In addition, a sum of Rs.2,000/- was awarded towards funeral expenses and a sum of Rs.2500/- was awarded towards loss of consortium. In this way, a total sum of Rs.4,79,700/- was awarded to the claimant. It is this determination which is under challenge in this appeal.

6. Learned counsel for the appellant/claimant submits that the Claims Tribunal has awarded a sum of Rs.4,79,700/- on account of death of Raju Kumar Ratnakar. He further submits that the compensation awarded by the Tribunal is grossly inadequate and on the lower side and it may be suitably enhanced.

7. On the other hand, learned counsel for the Insurance Company submits that the Claim Petition has been filed under Section 163-A of the Act. He submits that since the deceased was the son of the owner of the offending vehicle, he steps into the shoes of the owner and therefore, the claimant is not entitled to compensation. Learned counsel for the Insurance Company submits that while the vehicle was insured with the Company as per the Insurance Policy (Ex.D/1) and an additional premium of Rs.100/- was paid towards Personal Accident (PA) cover, no further liability can be fastened upon the Insurance Company in view of the law laid down by the Hon'ble Supreme Court in the judgment rendered in the matter of **Ramkhiladi and another vs. United India Insurance Company and another**, reported in **(2020) 2 SCC 550.**

2026:CGHC:8746

8. I have heard learned counsel for the parties and also perused the record with utmost circumspection.

9. In the matter of **Ramkhiladi (supra),** the Hon'ble 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 hereunder:

> *"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*

2026:CGHC:8746

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. Reverting to the facts of the present case, on perusal of the record, it is evident that deceased – Raju Kumar Ratnakar was the son of the owner of the offending vehicle. The accident occurred due to his own negligence, which caused the vehicle overturn, resulting in his death. In view of the principles laid down down in **Ramkhiladi (supra),** the deceased steps into the shoes of the owner and as such, due to his own negligence, the claimant is not entitled to compensation under Section 163-A or 166 of the Act. However, as an additional premium of Rs.100/- was paid to cover Personal Accident (PA) insurance up to

2026:CGHC:8746

Rs.2,00,000/-, the claimant is entitled to receive that specific amount under the contractual terms of the Policy.

11. In that view of the matter, the appeal **(MAC No.132/2018)** is allowed in part. The amount of compensation of **Rs.4,79,700/-** awarded by the Claims Tribunal is reduced to **Rs.2,00,000/-**. The claimant is entitled to get Rs.2,00,000/- in place of Rs.4,79,700/-.

12. This takes me to the other connected appeal i.e. M.A. No.472/2018 filed by the appellant/Insurance Company.

13. In view of the foregoing discussion, this appeal succeeds and is allowed in part. The impugned award is modified in favour of the appellant (Insurance Company) by reducing the same to the extent indicated above. Accordingly, the claimant is entitled to a total sum of **Rs.2,00,000/-** in place of **Rs.4,79,700/-**

14. The modified award of Rs.2,00,000/- shall carry interest at the rate of 6% interest from the date of filing of the claim petition till realization; all other conditions of the impugned award shall remain intact.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay