



2026:CGHC:10327



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NAFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### MAC No. 331 of 2023

**1** - Kotak Mahindra General Insurance Company Limited Through Branch Manager Lal Ganga Shopping Mall, G. E. Road, Shop No. 138, To 147 A, 1st Floor Raipur, Chhattisgarh Also At National Corporate Park, 312, 3rd Floor G. E. Road, Near Anupam Garden, Raipur Chhattisgarh. 492013- .....Insurer Of Car No. C. G. 04 Kx 9997 .....Insurer, District : Raipur, Chhattisgarh

... **Petitioner(s)**

**versus**

**1** - Smt. Girja Sinha W/o Late Jagmohan Sinha Aged About 32 Years R/o Ward No. 3, Nahar Para Sundrawan, Police Station Gidhpuri, District : Balodabazar-Bhathapara, Chhattisgarh

**2** - Ku. Ratna Sinha D/o Late Jagmohan Sinha Aged About 9 Years Minor Through Natural Guardian Mother Smt. Girja Sinha W/o Late Jagmohan Sinha R/o Ward No. 3, Nahar Para Sundrawan, Police Station Gidhpuri, District : Balodabazar-Bhathapara, Chhattisgarh

**3** - Yaman Sinha S/o Late Jagmohan Sinha Aged About 8 Years Minor Through Natural Guardian Mother Smt. Girja Sinha W/o Late Jagmohan Sinha R/o Ward No. 3, Nahar Para Sundrawan, Police Station Gidhpuri, District : Balodabazar-Bhathapara, Chhattisgarh

**4** - Chatresh Sinha S/o Late Jagmohan Sinha Aged About 6 Years Minor Through Natural Guardian Mother Smt. Girja Sinha W/o Late Jagmohan



Sinha R/o Ward No. 3, Nahar Para Sundrawan, Police Station Gidhpuri,  
District : Balodabazar-Bhathapara, Chhattisgarh

**5** - Narsingh Jaiswal S/o Gokul Jaiswal Aged About 61 Years R/o Ward  
No. 3, Nahar Para Sundrawan, Police Station Gidhpuri, District :  
Balodabazar-Bhathapara, Chhattisgarh

**6** - Smt. Umabai Jaiswal W/o Narsing Jaiswal Aged About 58 Years  
Minor Through Natural Guardian Mother Smt. Girja Sinha W/o Late  
Jagmohan Sinha R/o Ward No. 3, Nahar Para Sundrawan, Police  
Station Gidhpuri, District : Balodabazar-Bhathapara, Chhattisgarh

**7** - Rahul Kumar Yadav S/o Tulsi Ram Yadav Aged About 33 Years R/o  
Near Kesharwani Bartan Wala, Murra Bhatti, Gandhi Nagar,  
Raipur .....Driver, District : Raipur, Chhattisgarh

**8** - Anil Rajpal S/o Khemchand Rajpal Aged About 35 Years R/o Qr. No.  
12/1070, Near Raman Mandir, Fafadih Chowk Raipur .....Owner,  
District : Raipur, Chhattisgarh

... Respondent(s)

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For Petitioner(s) : Mr. Raj Awasthi, Advocate

For Respondent(s) : Mr. Bharat Gulabani, Advocate

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**Hon'ble Shri Justice Rakesh Mohan Pandey**

**Judgment On Board**

**27.02.2026**

- 1) This appeal has been preferred by the appellant/insurance company under Section 173 of Motor Vehicle Act, 1988 assailing the award passed by learned Motor Accident Claims Tribunal, Balodabazar Bhatapara in Claim Case No.68/2021 dated 14.12.2022 whereby learned Tribunal has passed an award to the



tune of Rs. 21,03,336/- with interest @ 7.5% on account of death of Jagmohan Sinha.

- 2) Facts of the case, in brief, are that on 02.03.2021 at around 10:15 PM the motor cycle of the deceased was dashed by the offending car bearing registration No.CG04 KX 9997 and in the said accident Jagmohan Sinha sustained injuries and during course of treatment he died. The claimants who are widow, children and parents of deceased filed claim case under Section 166 of the Motor Vehicles Act *inter alia* on account that at the time of accident the age of the deceased was 31 years and earning Rs.30,000/- per month as the deceased was running auto parts shop. They claimed a sum of Rs.41,00,000/- before the Tribunal.
- 3) The insurance company filed its reply and denied the averments made in the claim petition and took plea that the FIR was registered with delay, the vehicle was seized after three months, and the driver of the offending vehicle did not possess a valid and effective driving licence.
- 4) The Tribunal framed issues, parties led evidence and thereafter award was passed.
- 5) Mr. Awasthi, learned counsel for the appellant, submits that the deceased met with an accident on 02.03.2021, whereas the FIR was registered on 03.03.2021 against an unknown vehicle. He further submits that the offending vehicle was seized by the police after 96 days and, thus, offending vehicle was falsely implanted by the claimants. He contends that this aspect has not been



considered properly by the Tribunal. It is further argued that the claimants failed to examine any eyewitness to the incident, and the police also did not cite any eyewitness in the final report. Thus, there is no material on record explaining how the offending vehicle was seized and its driver was arrested. He, therefore, prays for setting aside the award passed by the Tribunal.

- 6) On the other hand, Mr. Gulabani, learned counsel for the respondent, submits that the grounds raised by the Insurance Company before this Court were considered by the learned Tribunal. He contends that a *merg* intimation was registered and, after conducting the *merg* enquiry, the police registered the FIR. He further contends that during the course of investigation, the police seized the offending vehicle and arrested its driver. He also contends that no complaint was made by the owner of the vehicle before the superior police authorities. He contends that the Tribunal has awarded just and proper compensation and, therefore, the appeal deserves to be dismissed.
- 7) I have heard learned counsel for the parties and perused the record with utmost circumspection.
- 8) *Merg* intimation was lodged on 08.04.2021 at 20:30 hours. The FIR was registered on 30.05.2021 after completion of the *merg* enquiry. The offending car was seized by the police on 12.07.2021 and, thereafter, the driver of the said vehicle was arrested on the same day. The owner of the vehicle failed to make any complaint against the registration of the FIR, seizure of the offending



vehicle, or arrest of the driver. The Insurance Company did not appoint any investigator to inquire into the matter, to establish non-involvement of the vehicle. Further, the Insurance Company failed to examine any witness in support of the contentions raised in its reply to the claim petition.

9) The Hon'ble Supreme Court in the matter of **Ravi Vs. Badripal reported in 2011 4 SCC 693**, held that delay in lodging the FIR cannot be a ground to doubt the claimant's case and knowing the Indian conditions as they are, we cannot expect a common man to first rush to the police station immediately after an accident. It is also held that in cases of delay, the courts are required to examine the evidence with a closer scrutiny. It is also held that delay in lodging the FIR cannot be a ground to deny justice to the victim and while doing so the contents of FIR should also be scrutinized more carefully. The Paragraphs 17 & 18 of the judgment are reproduced hereinbelow:-

**“17.** It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.

**18.** In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so the contents of the FIR should



also be scrutinised more carefully. If the court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.

- 10) Taking into consideration the facts of the present case and the law laid down by the Hon'ble Supreme Court in the matter of **Ravi** (**supra**) I am of the opinion that no case is made out for interference in the judgment and award passed by the Tribunal.
- 11) Accordingly, the appeal fails and is hereby **dismissed**.

Sd/-  
(**Rakesh Mohan Pandey**)  
JUDGE