CGHC010209932016 2026:CGHC:30162

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SAIFAN KHAN Digitally signed by SAIFAN KHAN

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1607 of 2016

1 - National Insurance Company Limited Through The Branch Manager, Branch Office- B-1, Saha Complex, First Floor, Ring Road, Priyadarshani Nagar, Vyapar Vihar Road, Bilaspur, Chhattisgarh, Permanent Address- Handi Chowk, Raigarh, Chhattisgarh ....Non-Applicant No.2, Chhattisgarh

--- **Appellant**

Versus

1 - Smt. Selsa Minj W/o Romanus Minj, Aged About 49 Years Caste- Uraon, R/o Village- Kushwabahri, Post Office- Kodatarai, Kharsia, Police Station- Bhupdeopur, District- Raigarh, Chhattisgarh, Chhattisgarh

2 - Ku. Vandana D/o Romanus Minj, Aged About 19 Years R/o Village- Kushwabahri, Post Office- Kodatarai, Kharsia, Police Station- Bhupdeopur, District- Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

3 - Naveen Minj S/o Romanus Minj, Aged About 14 Years Minor Represented Through Mother Smt. Selsa Minj, R/o Village- Kushwabahri, Post Office- Kodatarai, Kharsia, Police Station- Bhupdeopur, District- Raigarh, Chhattisgarh ....Claimants, District : Raigarh, Chhattisgarh

4 - Romanus Minj S/o Liyas Minj, Aged About 50 Years R/o Village- Kushwabahri, Post Office- Kodatarai, Kharsia, Police Station- Bhupdeopur, District- Raigarh, Chhattisgarh Owner ....Non-Applicant, District : Raigarh, Chhattisgarh

--- **Respondents**

MAC No. 1196 of 2019

1 - Smt. Selsa Minj W/o Romanus Minj Aged About 49 Years Caste - Uraon, R/o Village Kushwabahari, P.O. Kodatarai Kharsiya, P.S. Bhupdevpur, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

2 - Ku. Vandan Minj D/o Romanus Minj Aged About 19 Years R/o Village Kushwabahari, P.O. Kodatarai Kharsiya, P.S. Bhupdevpur, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

3 - Minor Naveen Minj S/o Romanus Minj Aged About 14 Years Minor, Through The Legal Guardian Appellant No. 1 Her Mother, Caste - Uraon, R/o Village Kushwabahari, P.O. Kodatarai Kharsiya, P.S. Bhupdevpur, District Raigarh Chhattisgarh. (Claimants), District : Raigarh, Chhattisgarh

---**Appellants**

Versus

1 - Romanus Minj S/o Elias Minj Aged About 50 Years R/o Village Kushwabahari, P.O. Kodatarai Kharsiya, P.S. Bhupdevpur, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

2 - Branch Manager National Insurance Company Limited B - 1, Saha Complex First Floor Ring Road Priyadarshani Nagar, Vyapar Vihar Bilaspur Chhattisgarh. Parmanent R/o Handi Chowk Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

--- **Respondents**

[Cause-title taken from Case Information System (CIS)]

For Insurance Company	:	Mr.Qamrul Aziz, Advocate
For Claimants	:	MK Jaiswal, Advocate

<u>Single Bench: Hon'ble Shri Justice Sanjay K. Agrawal</u>

(Order on Board)

<u>16.07.2026</u>

1. Regard being had to the similitude of the questions of facts and law involved and being arising out of a common accident, on the joint request of learned counsel for the parties, both these appeals are clubbed together, heard together and being disposed of by this common order.

2. **<u>MAC-1607-2016</u>** has been filed at the instance of Insurance Company under Section 173 of the Motor Vehicle Act, 1988, challenging the award dated 11.04.2016, whereby the learned Claims Tribunal has awarded a total sum of Rs.4,38,000/- alongwith 6% PA interest as compensation to the claimants and the liability to pay the same has been imposed upon the Insurance Company. Whereas, MAC-1196-2019, has been filed at the instance of the Claimants challenging the same award dt. 11.04.2016 seeking enhancement of the said amount of compensation.

Appeal of the Insurance Company being MAC-1607-2016:

3. Mr.Qamrul Aziz, learned counsel for the Insurance Company submits that though vide impugned award dt. 11.04.2016, the learned Claims Tribunal has allowed the claim petition of the claimants filed under Section 163-A of the MV Act and awarded a total sum of Rs.4,38,000/- alongwith 6% PA interest as compensation to the claimants, but wrongly imposed the liability to pay the same upon them for the reason that deceased was himself owner of the offending vehicle. As such, the insurance company is not liable to pay the compensation to the claimants.

4. A careful perusal of the impugned award, would show that learned claims tribunal after full-fledged trial has clearly recorded a finding that though on the date of accident the deceased was driving the vehicle, but he was not the owner, indeed, the father of the deceased is the owner of the offending vehicle and, therefore, fastened the liability to pay compensation upon the insurance company, which finding, in the considered opinion of this Court, is correct finding of fact based on evidence and same is neither perverse nor contrary to the record. It is held accordingly. Consequently, the appeal of the insurance company is liable to be and is hereby rejected.

Appeal of the Claimants being MAC-1196-2019:

5. Learned counsel for the Claimants would submit that learned Claims Tribunal has erred in awarding less amount of compensation in the facts of the case as though the accident happened on 28.01.2012 and deceased died on the same date but compensation of Rs. 5,00,000/- ought to be awarded to the claimants by applying the amendment in Section 163-A of the Act of 1988, which came into effect on 22/05/2018, with retrospective effect in view of the decision rendered by the Supreme Court in the matter of **New India Assurance Co. Ltd. v. Urmila Halder**[1].

6. In this regard, the decision rendered by the Supreme Court in the matter of **Urmila Halder (supra)** may be noticed herein profitably wherein it has been held as under :-

> "4. The short point for consideration before this Court is whether the amendment in Section 163-A of the Motor Vehicles Act, 1988, which came into effect by a Gazette Notification on 22nd May, 2018, would relate to an accident which had occurred prior to the said date.
>
> 10. The order of the High Court is well discussed and we agree with the view taken. We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-Insurance Company has not been interfered with. Only the computational mode and the modality have been further clarified, which rightly has been noted by the High Court and accordingly, the claim has been enhanced to Rs. 5,00,000/- (Rupees Five Lakhs). As 50% of the compensation amount was stayed by this Court, the same be paid to the

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> respondent in terms of the impugned judgment within eight weeks."

7. In view of the aforesaid decision of the Supreme Court rendered in the matter of **Urmila Halder** (supra), in the present case, though the accident is said to have occurred on 28.01.2012 and deceased died on the same date and the application under Section 163-A of the Act of 1988 was preferred by the claimants on 26.04.2012 and the impugned award has been passed on 11.04.2016, but as per the amendment made in the 2nd Schedule of Section 163-A of the Act of 1988 which came into force w.e.f 22/05/2018, a compensation of Rs. 5,00,000/- can be granted to the claimants, as has been held by the Supreme Court in **Urmila Halder** (supra), a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. As such, the amount of compensation of Rs.4,38,000/- awarded by the Claims Tribunal is enhanced to Rs. 5,00,000/-. Moreover, as per the amendment notified under the Second Schedule in 22/05/2018, on and from the date of 1st day of January, 2019, the amount of compensation specified in the clauses (a) to (c) of paragraph (1) shall stand increased by 5 per cent annually. Therefore, the claimants will be entitled for an additional amount of Rs. 35,000/- from 01/01/2019 to the present date i.e. 7 years (Rs. 5,000/- x 7 = Rs. 35,000/-) and thus, the claimants are entitled to total compensation of **Rs. 5,35,000/-** along with interest @ 6% *per annum* from the date of filing of claim application before the Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

8. Accordingly, the appeal of the Insurance Company being **MAC-1607-2016 is dismissed**, whereas appeal of the Claimants being **MAC-1196-2019 is allowed** and the impugned award is modified to the extent as indicated herein-above.

sd/-
(Sanjay K. Agrawal)
Judge

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