



2026:CGHC:10385



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 972 of 2022

1. Dhanmat Bai Dewangan W/o Late Dauram Dewangan Aged About 71 Years Caste- Koshta, R/o Sanjay Nagar, Ward No.11, Champa, Tahsil And Police Station Champa, District Janjgir-Champa, Chhattisgarh.
2. Ramkumar Dewangan S/o Late Dauram Dewangan Aged About 54 Years Caste- Koshta, R/o Sanjay Nagar, Ward No.11, Champa, Tahsil And Police Station Champa, District Janjgir-Champa, Chhattisgarh.
3. Dinesh Kumar Dewangan S/o Late Dauram Dewangan Aged About 50 Years Caste- Koshta, R/o Sanjay Nagar, Ward No.11, Champa, Tahsil And Police Station Champa, District Janjgir-Champa, Chhattisgarh.
4. Suresh Kumar Dewangan S/o Late Dauram Dewangan Aged About 48 Years Caste- Koshta, R/o Sanjay Nagar, Ward No.11, Champa, Tahsil And Police Station Champa, District Janjgir-Champa, Chhattisgarh.
5. Rupesh Kumar Dewangan S/o Late Dauram Dewangan Aged About 43 Years Caste- Koshta, R/o Sanjay Nagar, Ward No.11, Champa, Tahsil And Police Station Champa, District Janjgir-Champa, Chhattisgarh.
6. Smt. Ramkumari Dewangan D/o Late Dauram Dewangan Aged About 56 Years Caste- Koshta, R/o Sanjay Nagar, Ward No.11, Champa, Tahsil And Police Station Champa, District Janjgir-Champa, Chhattisgarh.

... Appellant(s)

versus

1. Sanat Kumar Bareth S/o Late Bundram Bareth Aged About 41 Years R/o Amhapara Sivni, Ward No.16, Tahsil And Police Station Champa, District Janjgir-Champa, Chhattisgarh. (Driver Of Motorcycle No. Cg 11, A.Q. 2038)
2. Banwarilal Bareth S/o Devprasad Bareth Aged About 48 Years R/o Village Kurda, Tahsil And Police Station Champa, District - Janjgir-Champa, Chhattisgarh. (Owner Of Motorcycle No. Cg 11, A.Q. 2038)
3. The Oriental Insurance Company Limited Branch Office - Shanti Nagar, Infront Of Railway Station Champa Tahsil And Police Station Champa, District - Janjgir - Champa, Chhattisgarh. (Insurer Of Motorcycle No. Cg 11, A.Q. 2038)



For Appellants/Claimants	:	Ms. Isha Rajak, Advocate holding the brief of Mr. Sourabh Sahu, Advocate
For Respondent No. 3/ Insurance Company	:	Ms. Swati Agrawal, Advocate holding the brief of Mr. Pankaj Agrawal, Advocate
For Respondents No. 1 & 2	:	None.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

27.02.2026

1. The claimants have filed this appeal assailing the judgment and award passed by the 1st Additional Motor Accident Claims Tribunal, Janjgir passed in Claim Case No. 9/2022 dated 18.07.2022, whereby, the claim petition filed by the claimants/appellants was dismissed.

2. The facts in brief are that on 29.11.2020 at around 4:45 pm, when deceased was on his routine walk, he was dashed by rider of the motorcycle bearing registration No. CG 11 AQ 2038. In said accident, the deceased sustained severe injuries including head injury. The deceased was admitted in the Hospital where he took his last breath on 06.12.2020. The claimants, who are widow and major children of deceased filed a claim case under Section 166 of Motor Vehicle Act, wherein, they pleaded that the age of the deceased was 73 years at the time of accident and earning Rs. 20,000/- per month as the deceased was engaged in manufacturing of Kosa cloths. The Insurance Company filed reply and took a plea that there was negligence on the part of the deceased himself and deceased had no personal income. Further plea was taken that the claim case was filed after expiry of prescribed limitation period. The learned Tribunal framed issues parties led evidence and thereafter final judgment was passed.

3. Ms. Isha Rajak, Advocate appearing for the claimants would argue that immediately after accident, the deceased was taken to Nayak Hospital,



Champa. He was referred to District Hospital, Janjgir, and later on, he was referred to CIMS, Bilaspur. As bed was not available in CIMS, Bilaspur, therefore, he was admitted in Vandana Hospital, Bilaspur on 29.11.2020. She would submit that on 03.12.2020, the deceased was admitted in Mecahara D.K.S. Super Specility Hospital, Raipur, where he died on 06.12.2020. She would submit that the claimants have produced discharge summary, medical reports & bills, but the learned Tribunal failed to consider those documents. She would contend that the learned Tribunal committed error while dismissing the claim case filed by the claimants. She would pray to set-aside the judgment passed by the learned Tribunal.

4. On the other hand, Ms. Swati Agrawal, Advocate would oppose. She would submit that the deceased himself was negligent. She would further submit that the offending vehicle was not involved in the accident and said vehicle was implicated. She would pray to dismissed the instant appeal.
5. I have heard learned counsel for the parties and perused the record.
6. In evidence, the claimants have produced invoices issued by the Vandana Multispeciality Hospital, Bilaspur vide Ex. P/19, Ex. P/21, P./23, P/25 up to P/43. The claimants further exhibited receipt issued by Jai Chhattisgarh Ambulance Service vide Ex. P/45, which shows that the deceased was brought from Champa to Janjgir, and thereafter, CIMS Bilaspur. Ex. P/46 is receipt issued by Cardecare Ambulance Pvt. Ltd. dated 02.12.2020, which shows that the deceased was taken to Raipur Hospital from Bilaspur.
7. FIR was registered on 01.12.2020 by one Ram Kumar Dewangan, who categorically stated that his father Dau Ram Dewangan was hit by rider of motorcycle, namely, Sanat Kumar Bareth S/o Bundram Bareth.
8. The learned Tribunal has discarded the contents made in the FIR only on the ground that the registration number of the offending vehicle is not



mentioned. The finding recorded by the learned Tribunal appears to be erroneous. There was prompt FIR and name of rider of the offending motorbike was disclosed. Further owner of the offending vehicle as well as Insurance Company failed to adduce evidence to prove contrary.

9. The oral evidence as well as the medical documents would reveal that the deceased remained hospitalized till 06.12.2020. The learned Tribunal dismissed the claim petition on the ground that the claimants could not prove involvement of the offending vehicle. The contents of FIR, oral evidence of Ram Kumar clearly establish that the deceased was dashed by the offending motorbike.
10. With regard to cause of death, in postmortem report Doctor has opined cause of death head injury. In the FIR also, it is stated that the deceased suffered injury over face, nose and head. Thus, the contents of FIR are corroborated with the opinion recorded in the postmortem report.
11. The offending vehicle was seized by police on 18.01.2021 and rider of vehicle was arrested on same date, but no complaint was made by the owner of the vehicle before the superior police authorities against such action of the police.
12. The police after investigation filed charge-sheet against the rider of the motorbike. The owner of the vehicle failed to examine any witness before the Tribunal to prove the fact that offending bike was not involved in the accident. The Insurance Company also failed to discharged its burden to establish that the vehicle was not involved. Thus, the findings recorded by the learned Tribunal are contrary to the facts and evidence available on record. Accordingly, the award passed by the learned Tribunal is hereby **set-aside**. The matter is remitted back to the concerned Tribunal to decide it afresh after affording due opportunity of hearing to the parties.



13. Record be sent back forthwith.

14. Parties are directed to appear before the learned Tribunal on **15th April, 2026.**

Sd/-
(Rakesh Mohan Pandey)
Judge

\$iddhant