

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

FAO (MV) No.608 of 2016

Reserved on: 07.07.2026

Date of decision: 14.07.2026

Date of uploading on Website: 14.07.2026

Raju alias Rajinder Singh

...Appellant

Versus

Hardev Singh and another

...Respondents

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge

¹ *Whether approved for reporting?*

For the appellant: Mr. Ashok K. Tyagi, Advocate.

For the respondents: Mr. Shivom Vashisht Advocate, respondent
No.1.

Mr. Bunesh Pal, Advocate, for respondent
No.2.

Sushil Kukreja, Judge

The instant appeal is maintained by the appellant-petitioner (hereinafter referred to as the petitioner), under Section 173 of the Motor Vehicles Act (for short "MV Act"), against the impugned award dated 08.09.2015, passed by the learned Motor Accident Claims Tribunal-I, Sirmaur District at Nahan, HP, in MAC Petition No.23-MAC/2 of 2014, with a prayer to modify the impugned award.

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

2. Briefly stated the facts, giving rise to the present appeal, are that the petitioner had filed a claim petition under Section 166 of MV Act, whereby he sought compensation to the tune of Rs.15,00,000/- on account of death of his brother, namely, Guman Singh. It was averred by the petitioner that on 27.09.2013, his brother Guman Singh was traveling in the bus bearing registration No.HP-71-1316 from his village Uncha Tikkar to Sangrah, which was being driven by its driver Varinder Singh, and when the said bus reached on a curve near Village Jui Dhawla, the driver could not control the bus on account of his rash and negligent driving, due to which, it fell down into a deep khud as a result whereof, the passengers traveling in the bus sustained injuries, one injured passenger Sanjay was taken to CHC Sangrah and the others succumbed to the injuries on the spot, including Guman Singh and driver Varinder Singh.

3. As per the petitioner, at the time of his death, the deceased was 29 years old and he was working as Mason and was earning Rs.15,000/- per month Besides this, he was also earning Rs.3,000/- per month from the agriculture by growing cash crops etc. The deceased was unmarried and the petitioner was dependent upon him. The vehicle in question was owned by

respondent No.1-Hardev Singh and it was insured with respondent No.2-National Insurance Company Limited. Hence, the petitioner sought compensation to the tune of Rs.15,00,000/-.

4. Respondent No.1/owner of the offending vehicle, in his reply to the claim petition, raised preliminary objections that the deceased driver of the bus in question was possessing a valid and effective driving licence and he was employed after seeing his driving skills. On merits, it was averred that on account of the act of the deceased driver, the bus fell in the khud and the accident had taken place.

5. In the reply filed by respondent No.2/ National Insurance Company, it raised preliminary objections regarding maintainability, driver of the offending bus was not having a valid and effective driving licence, the bus in question was being driven in violation of the terms and conditions of insurance policy and without any valid permit and fitness. On merits, it was averred that the petitioner was neither legal heir, nor dependant upon the deceased. It was specifically denied that the monthly income of the deceased was Rs.18,000/- and submitted that the claim petition was preferred by the petitioner in collusion with respondent No.1.

6. On the basis of the pleadings of the parties, the learned Tribunal below framed the following issues on 12.08.2014:-

- “1. Whether the deceased had died in a motor vehicle accident on account of rash and negligent driving of deceased driver, as alleged? OPP***
- 2. If issue No.1 above is proved in affirmative, to what amount the petitioner is entitled for as compensation ? OPP***
- 3. Whether the respondent NO.2 Insurance Company can be held liable to indemnify the award amount? OPR-1***
- 4. Whether the deceased driver was not holding a valid and effective driving licence at the time of accident, as alleged. ? OPR-2***
- 5. Whether the vehicle was being plied in breach of terms and conditions of the insurance policy? OPR-2***
- 6. Relief.”***

7. After parties led their evidence, the claim petition was allowed and the petitioner was awarded compensation of Rs.80,000/- alongwith interest of 7.5% per annum from the date of petition till realization from the respondent. The likability of the respondents shall be joint and several. However, respondent NO.2, being insurer, was held liable to pay the award amount as indemnifier.

8. Feeling aggrieved and dissatisfied, the appellant-petitioner preferred the instant appeal against the impugned

award dated 08.09.2015, with a prayer to grant him compensation as was claimed in the petition.

9. I have heard the learned counsel for the appellant as well as learned counsel for respondent No.1 and learned counsel for respondent No.2 and also carefully examined the entire record.

10. Learned counsel for the appellant contended that the learned Tribunal below has failed to take into consideration the fact that the deceased was not only the elder brother of the appellant, but he was also *karta* of the joint family and, therefore, every family member was dependent upon him. He further contended that the learned Tribunal below has interpreted the word 'dependent' in a very narrow sense, whereas it is the elder member of the family upon whom the entire family members are dependent, hence, the impugned award deserves to be modified and the claim petition of the appellant/petitioner deserves to be allowed.

11. On the other hand, learned counsel for respondents supported the impugned award and prayed for dismissal of the instant appeal.

12. Perusal of the copy of Pariwar Register Ext. PW2/B reveals that petitioner Raju and deceased Guman Singh were

the real brothers and they used to reside in a joint family. It is admitted case of the petitioner that deceased Guman Singh was not having any children as he was unmarried. The learned Tribunal below had categorically held that the petitioner, being married and having his own family, could not be said to be dependent upon the deceased. Thus, the question which arises for consideration before this Court is that whether the petitioner, who was elder brother of the deceased and not dependent upon him, could have filed claim petition for compensation against the respondents?

13. In ***Smt. Manjuri Bera Vs. Oriental Insurance Company Limited, AIR 2007 SC 1474***, the married daughter, who was not dependent upon her deceased father, filed a claim petition and the question involved was whether she was entitled to maintain the said petition. It has been held by the Hon'ble Apex court that a claim petition can be filed by a legal representative of the deceased, who in the normal circumstances is entitled to represent his estate. It has further been held that 'statutory compensation' payable under Section 140 (2) of the Act, becomes the estate of inheritable. In these circumstances it was held that the daughter, who was entitled to inherit the estate of her father,

was also entitled to maintain claim petition and the compensation cannot be less than what has been prescribed in section 140 (2) of the Act. Relevant paras of the aforesaid judgment read as under:-

"16. Judged in that background where a legal representative who is not dependent files an application for compensation, the quantum cannot be less than the liability referable to Section 140 of the Act. Therefore, even if there is no loss of dependency the claimant if he or she is a legal representative will be entitled to compensation, the quantum of which shall be not less than the liability flowing from Section 140 of the Act. The appeal is allowed to the aforesaid extent. There will be no order as to costs. We record our appreciation for the able assistance rendered by Shri Jayant Bhushan, the learned Amicus Curiae.

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21. In my opinion, "No Fault Liability", envisaged in Section 140 of the said Act, is distinguishable from the rule of "Strict Liability". In the former, the compensation amount is fixed. It is Rs. 50,000/- in cases of death [Section 140(2)]. It is a statutory liability. It is an amount which can be deducted from the final amount awarded by the Tribunal. Since, the amount is a fixed amount/crystallized amount, the same has to be considered as part of the estate of the deceased. In the present case, the deceased was an earning member. The statutory compensation could constitute part of his estate. His legal representative, namely, his daughter has inherited his estate. She was entitled to inherit his estate. In the circumstances, she was entitled to receive compensation under "No fault Liability" in terms of Section 140 of the said Act....."

14. In **Gujrat State Road Transportation Corporation versus Ramanbhai Prabhatbhai and another AIR 1987 S.C.1690**, the real brothers of the deceased, were held entitled to file claim petition being his legal representatives.

15. In ***National Insurance Company Ltd. vs. Birender and others, AIR 2020 SC 434***, a question came up for consideration before Hon'ble Supreme Court as to whether major sons of the deceased, who are married and gainfully employed, can claim compensation. The Hon'ble Supreme Court held that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation irrespective of the fact whether the concerned legal representative was fully dependent on the deceased and it further held that the claim cannot be limited towards conventional heads only. Paras 14 and 15 of the said judgment are as under:-

“14. The legal representatives of the deceased could move application for compensation by virtue of clause (c) of Section 166(1). The major married son who is also earning and not fully dependant on the deceased, would be still covered by the expression “legal representative” of the deceased. This Court in Manjuri Bera (supra) had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the concerned legal representative. Notably, the expression “legal representative” has not been defined in the Act. In Manjuri Bera (supra), the Court observed thus:-

“9. In terms of clause (c) of sub-section (1) of Section 166 of the Act in case of death, all or any of the legal representatives of the deceased become entitled to compensation and any such legal representative can file a claim petition. The proviso to said sub-section makes the position clear that where all the legal representatives had not joined, then application can be made on behalf of the legal representatives of the deceased by impleading those legal representatives as respondents. Therefore, the High Court was justified in its view that the appellant

could maintain a claim petition in terms of Section 166 of the Act.

10.....The Tribunal has a duty to make an award, determine the amount of compensation which is just and proper and specify the person or persons to whom such compensation would be paid. The latter part relates to the entitlement of compensation by a person who claims for the same.

11.According to Section 2(11) CPC, "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who inter-meddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued. Almost in similar terms is the definition of legal representative under the Arbitration and Conciliation Act, 1996 i.e. under Section 2(1)(g).

12. As observed by this Court in *Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Naique* [1989 Supp (2) SCC 275] the definition contained in Section 2(11) CPC is inclusive in character and its scope is wide, it is not confined to legal heirs only. Instead it stipulates that a person who may or may not be legal heir competent to inherit the property of the deceased can represent the estate of the deceased person. It includes heirs as well as persons who represent the estate even without title either as executors or administrators in possession of the estate of the deceased. All such persons would be covered by the expression "legal representative". As observed in *Gujarat SRTC v. Ramanbhai Prabhatbhai* (1987)3 SCC 234 a legal representative is one who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent and child."

In paragraph 15 of the said decision, while advertng to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was

dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning.

15. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependent on the deceased and not to limit the claim towards conventional heads only.....”

16. Thus, the term 'legal representative' has broadly been interpreted in the aforesaid authoritative pronouncements of law whereby it has been held that any legal representative i.e. any person who in law represents the estate of a deceased including any person who inter-meddles with the estate of deceased is entitled to file claim petition. In the present case the statutory compensation payable under Section 140(2) of MV Act became the estate of deceased Guman Singh. Since the deceased was not having any children/widow, therefore, the learned Tribunal rightly came to the conclusion that the petitioner is entitled for the amount of compensation out of no fault liability compensation under Section 140 of MV Act as well as for love and affection only and not on account of dependency on the deceased as the

petitioner, being married and having his own family consisting of three children and wife, could not be said to be dependent upon the deceased.

17. Hence, in view of my aforesaid discussion, no interference is required in the impugned award dated 08.09.2015, passed by the learned Tribunal below. Consequently, the instant appeal, being devoid of merits, deserves dismissal and is accordingly dismissed.

Pending miscellaneous application(s), if any, shall stand disposed of.

(Sushil Kukreja)
Judge

July 14, 2026
(V. Himalvi)