



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

289

FAO-1248-2004 (O&M)

Reserved on : 15.07.2026

Pronounced on : 22.07.2026

SUKHWINDER KAUR

...APPELLANT

VERSUS

PRITAM BUS SERVICE AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Abhishek Sharma, Advocate for
Mr. Vishal Gupta, Advocate
for appellant.

Mr. Suvir Dewan, Advocate
for respondent No.3-Insurance Company.

PARMOD GOYAL, J. (ORAL)

Present appeal has been filed by the appellant who is the sister of Avtar Singh (hereinafter referred to as '**deceased**'), being aggrieved by the dismissal of her petition filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as '**1988 Act**'), vide award dated 01.10.2003, passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as '**Tribunal**') solely on the ground that she is not entitled to seek compensation as she was not dependent on the deceased.

2. Appellant-claimant filed the claim petition under Section 166 asserting that deceased, her brother was aged 25 years old and had died in motor vehicular accident dated 02.09.1999. It is the case of the appellant-claimant that the deceased was Punjabi Singer and was earning Rs.10,000/- per month. That on 02.09.1999 at about 02:30 p.m., when deceased was coming on motor cycle bearing registration No.PB-12-B-3154 being driven

by Balwant Singh with proper care and caution and on left side of the road and had reached near Govt. High School Nagawan, a bus bearing registration No.PB-10-L-9727 (hereinafter referred to as '**offending vehicle**') being driven by respondent-driver Gurmeet Singh came from the opposite direction in rash and negligent manner and struck against the motor cycle of deceased, resulting into death of the deceased at the spot and multiple serious injuries to Balwant Singh.

3. The learned Tribunal found that the accident dated 02.09.1999 had occurred on account of use of the offending vehicle. However, the learned Tribunal dismissed the claim petition preferred by appellant-claimant solely on the ground that the appellant was not dependent of the deceased. Since no appeal or cross-objections have been preferred by respondents, therefore, detailed facts as regards to manner of accident are not being noticed for the sake of brevity.

4. The issue whether an adult member, though not a dependent upon the deceased, is entitled to file a claim petition seeking compensation is no longer *res integra*. Courts in **Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai & Anr.**, 1987 (3) SCC (234), wherein brother of deceased claimed compensation, in **Gafaran & Ors. Vs. Tilakraj Kapur & Ors.**, 2005 ACJ 1711, wherein two married sisters of the deceased, who were not dependent on deceased had claimed compensation, in **New India Assurance Co. Ltd Vs. Ramya Raghavan & Anr.**, 2006 ACJ 2347, wherein petitioner was a married daughter, **Manjuri Bera Vs. Oriental Insurance Company Ltd. & Anr.**, 2007 (10) SCC 643, and in **Montford Brothers of St. Gabriel & Anr. Vs. United India**

Insurance & Anr., Civil Appeal No. 3296-3270 of 2007, wherein a charitable society claimed compensation for the death of a “Brother” of the society in a motor car accident, Courts had held that under Section 166 of the 1988 Act, where the death has resulted from the accident, the claim can be preferred by all or any of the legal representatives of the deceased. This provision does not speak of dependents or all such legal representatives being dependent on the deceased. Any legal representative of the deceased can prefer claim before the Tribunal irrespective of he being dependent or not dependent on the deceased. Thus from the above discussed noted judgments, it is clear that a married sister / daughter, earning brother / son, a brother / son who is living separately or even a charity can seek compensation before the MACT.

5. In **Manjuri Bera Vs. Oriental Insurance company Ltd. & Anr.**, 2007 (10) SCC 643, it was held that legal representatives of deceased shall only be entitled to compensation payable for loss of estate alone. Hon’ble Supreme Court of India however, in Civil Appeal Nos. 242-243 of 2020 (Arising out of SLP (Civil) Nos. 976-977 of 2020) titled as **National Insurance Company Limited Vs. Birender & Ors.**, decided on 13.01.2020 after referring to **Manjuri Bera Vs. Oriental Insurance company Ltd. & Anr.**, (supra) had held :

“..... 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. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meager income between Rs.1,00,000/- and Rs.1,50,000/- per annum. In that sense, they were largely dependent on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years.”

6. Keeping in view facts in above noted case, Hon’ble Supreme Court after determining annual income & future prospects, thereafter deducting 1/3rd towards living expenses applied multiplier of 13 (keeping in view age of deceased who was also 48 years old) had awarded compensation

towards loss of dependency. The case of appellant-claimant is similar to claimants in **National Insurance Co. Ltd. Vs. Birender and Ors.** (supra), therefore, appellant-claimant is also entitled to compensation.

7. In present case, appellant-claimant asserted that deceased was earning Rs.10,000/- per month from profession of Punjabi Singer, however, no cogent and reliable evidence, except for self-serving oral assertions, was placed on record to prove the income and vocation of the deceased.

8. On consideration, this Court find that in absence of any proof regarding the income and vocation of the deceased, the income of deceased be taken equivalent to minimum wages payable to skilled worker in the year 1999. Since the accident had taken place in the year 1999, the **income** of deceased is taken as **Rs.2,057/-** as per minimum wages payable to **upper skilled worker** in the year 1999. Keeping in view the age of deceased to be 25 years at the time of accident, addition of 40% towards future prospects needs to be added in view of judgment passed by Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680 and multiplier of '18' needs to be applied in view of judgment passed by Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009(6) SCC 121. Since the deceased is survived by one dependent i.e. her sister and was unmarried at the time of accident, deduction of 50% towards personal expenses has to be made. Accordingly, taking salary of deceased to be Rs.2,057/- per month, after addition of 40% of future prospects, applying multiplier of '18' and after making deduction of 50%, loss of dependency is determined hereinbelow.

9. Apart from compensation for loss of dependency, appellant-

claimant shall also be entitled to **Rs.15,000/-** towards **funeral expenses** and **Rs.15,000/-** towards **loss of estate**. It is however made clear that in case Hon’ble Supreme Court answer the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants-claimants, appellants-claimants shall be free to seek said amount by moving appropriate application in this regard.

10. Reworked compensation payable to appellants-claimant is as under:-

Income	Rs.2,057/-	Rs.2,057/-
Future prospects	40% (2057+822)	Rs.2,879/-
Deduction	50% (2879-1439)	Rs.1,440/-
Multiplier	18	18
Total loss of dependency	1440 X 18 X 12	Rs.3,11,040/-
Loss of estate		Rs.15,000/-
Funeral expenses		Rs.15,000/-
Total compensation awarded in appeal		Rs.3,41,040/-/-

11. Appellants-claimant shall be entitled to enhanced compensation (except for conventional heads i.e. loss of consortium, funeral expenses, loss of estate) along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Interest on enhanced compensation under conventional heads shall be payable from August 2017 onwards till realization. Apportionment and liability to pay compensation shall be as per

award.

12. Appeal is disposed of in above terms. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

(PARMOD GOYAL)
JUDGE

22.07.2026
Sunil Chander

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No