



being driven by respondent no.4. According to the claimants, the vehicle was being driven at an excessive speed and in a rash and negligent manner and, near Galtiganda, the driver lost control over the vehicle, resulting in an accident. In the said accident, Smt. Jayanti Devi Karki sustained grievous injuries and succumbed to the same at the spot.

3. The claimants, being the brother and sister-in-law of the deceased, instituted the claim petition seeking compensation of ₹30,00,000/- along with interest and other consequential expenses. It was pleaded that the deceased was employed as an Auxiliary Nurse Midwife (A.N.M.) at Primary Health Centre, Berinag and was earning a monthly salary of approximately ₹30,884/-. It was further pleaded that the claimants were dependent upon the income of the deceased and that she was maintaining the household from her earnings.

4. Respondent nos.3 and 4, namely, the owner and driver of the vehicle, contested the claim petition by filing their written statement. They denied the allegation of rash and negligent driving and pleaded that the driver was driving the vehicle cautiously and with due care and diligence. According to them, the accident occurred on account of the sudden cave-in/collapse of the edge of the



road, which resulted in the vehicle meeting with the accident. It was further pleaded that the vehicle was duly insured with the appellant–Insurance Company on the date of the accident; the driver possessed a valid and effective driving licence; and all the requisite documents relating to the vehicle were valid and effective. On these premises, it was pleaded that, in the event the claimants were found entitled to compensation, the liability to satisfy the award would fall upon the Insurance Company.

5. The appellant–Insurance Company also filed its written statement disputing the claim. It was specifically pleaded that the vehicle in question was being operated in breach of the terms and conditions of the insurance policy and, therefore, the Insurance Company was not liable to indemnify the owner or satisfy the claim. The other averments made in the claim petition were also denied.

6. On the basis of the pleadings of the parties, the learned Tribunal framed the following issues:

(i) Whether on 06.03.2011 at about 12:30 P.M., the driver of vehicle bearing registration No.UK-05-TA-0148 was driving the vehicle in a rash and negligent manner, resulting in the death of Kumari Jayanti Karki at the spot?

(ii) Whether all the documents of the vehicle in question, including the driving licence, were valid and effective on the date of the accident?



(iii) Whether the vehicle was carrying passengers in excess of the permissible capacity and whether such overloading was the cause of the accident?

(iv) Whether the claimants are entitled to receive any compensation? If so, to what extent and from which of the parties?

7. In support of their respective cases, the parties adduced oral as well as documentary evidence. Upon appreciation of the evidence available on record, the learned Tribunal answered the material issues in favour of the claimants and against the appellant-Insurance Company. Consequently, vide judgment and award dated 30.04.2012, the learned Tribunal awarded compensation of ₹15,48,914/- in favour of the claimants and fastened the liability upon the appellant-Insurance Company.

8. Learned counsel for the appellant-Insurance Company has assailed the impugned judgment and award primarily on the ground that the learned Tribunal failed to properly appreciate the question of dependency and the status of the claimants; that, the claimant no.1 is the elder brother of the deceased and claimant no.2 is his wife, i.e. the sister-in-law of the deceased, and that the deceased was not shown as a member of the family of the claimants in the ration card. It is, therefore, contended that the claimants could not have been treated as



dependants upon the deceased merely on the basis of their relationship with her.

9. Learned counsel for the appellant would further submit that the claimant were themselves aged about 60 and 55 years respectively and, in the absence of cogent evidence demonstrating actual financial dependency upon the deceased, the award of ₹15,48,914/- is excessive; that, the deceased was an unmarried woman and, had she survived, there was a reasonable possibility that she would have married and established her own family. In such circumstances, according to learned counsel, it cannot be presumed that the entire income of the deceased would have continued to be contributed towards the claimants; that, learned learned Tribunal erred in treating the claimants as dependants and in computing the compensation on that basis.

10. He would further submit that there is no reliable and independent evidence on record establishing that the claimants were financially dependent upon the deceased at the time of the accident; that, mere nomination of claimant no.1 in the service records of the deceased, according to the appellant, would not by itself establish dependency, as nomination does not determine the entitlement to compensation under the Motor Vehicles



Act, therefore, on these grounds, the impugned judgment and award deserves to be set aside or, in the alternative, the compensation deserves to be substantially reduced.

11. Per contra, learned counsel appearing for respondent nos.1 and 2/claimants would submit that the claim petition specifically contained a categorical averment that the claimants were dependent upon the income of the deceased and that they had no independent source of livelihood; that, the deceased was employed as an A.N.M. and was earning a regular monthly salary, out of which the household expenses of the claimants were being met; that, claimant no.1 was nominated by the deceased in her service records and that the retiral/service benefits of the deceased were also released in his favour; that, the aforesaid circumstances, coupled with the oral and documentary evidence produced before the Tribunal, sufficiently establish the financial dependence of the claimants upon the deceased. It is, therefore, submitted that the learned Tribunal, upon proper appreciation of the evidence, has rightly awarded compensation and no interference is warranted in the present appeal.

12. Learned counsel appearing for respondent nos.3 and 4, namely, the owner and driver of the offending vehicle, submits that the vehicle was duly insured with



the appellant–Insurance Company on the date of the accident and that the driver possessed a valid and effective driving licence; that, no breach of the terms and conditions of the insurance policy has been established by the Insurance Company by leading cogent and reliable evidence, therefore, according to learned counsel, the learned Tribunal has rightly fastened the liability upon the appellant–Insurance Company.

13. Having heard learned counsel for the parties and having carefully perused the record, this Court finds that the principal contention raised by the appellant relates to the status of the claimants as dependants and the quantum of compensation awarded by the learned Tribunal.

14. It is well settled that, while determining compensation under the Motor Vehicles Act, the expression “legal representative” is of wider amplitude than the expression “legal heir”. A person may maintain a claim for compensation if he or she is a legal representative of the deceased and the loss suffered on account of the death is established in accordance with law. At the same time, where compensation is claimed under the head of loss of dependency, the actual financial dependency of the claimant upon the deceased is a



relevant consideration. Mere relationship with the deceased, by itself, is not conclusive of dependency.

15. It is equally well settled that the question of dependency is essentially a question of fact, which has to be determined on the basis of the evidence available on record. The fact that the claimants are the brother and sister-in-law of the deceased does not, by itself, create an absolute bar against their maintaining a claim. However, the claimant asserting financial dependency is required to establish the same by cogent material. Likewise, the fact that the deceased was unmarried cannot, by itself, justify a speculative deduction on the assumption that she would necessarily have married in future and would thereafter have ceased to contribute to the claimants. Compensation has to be determined on the basis of legally permissible principles and the evidence on record, rather than on conjectures.

16. In the present case, the learned Tribunal has considered the oral and documentary evidence adduced by the parties and has recorded findings with regard to the accident, negligence, validity of the vehicle documents and the entitlement of the claimants. The appellant has not been able to demonstrate any perversity or material illegality in the findings recorded by the learned Tribunal



so as to warrant interference in appellate jurisdiction.

17. So far as the plea regarding violation of the terms and conditions of the insurance policy is concerned, the burden was upon the Insurance Company to establish the alleged fundamental breach by cogent evidence. A mere pleading of breach, in the absence of satisfactory proof establishing the particular violation and its legal consequence, cannot by itself absolve the insurer from its statutory liability to satisfy the award. In the present case, no such finding has been demonstrated before this Court which would justify exonerating the appellant from the liability fastened upon it by the learned Tribunal.

18. The contention that the claimants were aged about 60 and 55 years and, therefore, their life expectancy was limited, also cannot furnish a legally sustainable basis for reducing the compensation. The multiplier and other components of compensation are required to be determined in accordance with the principles laid down by the Hon'ble Supreme Court, having regard to the age of the deceased and the established income and dependency, and not on an uncertain or speculative assessment of the remaining life expectancy of the claimants.

19. Having regard to the overall facts and circumstances of the case, the evidence brought on record



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and the findings recorded by the learned Tribunal, this Court is of the considered view that the appellant has failed to establish any such error of law or perversity in the impugned judgment and award which would warrant interference in the present appeal.

20. Accordingly, the present appeal is dismissed.

21. There shall be no order as to costs.

(ALOK MAHRA,J.)
11.08.2026

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