



2026:AHC:189304

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 292 of 2026

Cholamandalam General Insurance Company Ltd.

.....Appellant(s)

Versus

Mithlesh Kumari And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Pawan Kumar Singh
Counsel for Respondent(s)	:	Ram Om Vikram Singh Chauhan

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Shri Pawan Kumar Singh, learned counsel for the appellant and Shri Ram Om Vikram Chauhan, learned counsel for respondents/claimants. However, none has appeared on behalf of the respondent nos.4 and 5 despite notice have been duly served on them.

2. This appeal has been filed on behalf of the appellant-Insurance Company with a prayer to set aside the impugned judgment and decree dated 17.10.2025 passed by Motor Accident Claims Tribunal, Etawah in M.A.C.P. No.761 of 2017 (Mithilesh Kumari & Ors. vs. Sachin Kumar & Ors.) whereby the claim petition was partly allowed and an amount of Rs.4,30,000/- has been awarded as compensation to the claimants.

Brief facts

3. Briefly stated, the deceased Bhagwan Devi was knocked down by a Scorpio Car bearing registration No. UP-75 L/0987 on 04.10.2017 at about 11:00 a.m. while she was waiting for a tempo on the side of Balrai-Jaswantnagar road, District Etawah. She was taken to District Hospital, Etawah, where she succumbed to the injuries sustained in the accident. At the time of accident, she was aged about 70 years.

4. The deceased was a widow. She had three daughters, out of whom one had already died in the year 2015. Her two surviving daughters were married and were residing with the deceased. Chandra Prakash, son of the deceased daughter, was also one of the claimants. Thus, the claim petition under Sections 140 and 166 of the Motor Vehicles Act was filed by the

two married daughters and the grandson of the deceased.

5. The Tribunal, while considering the issue of negligence, recorded a finding against the driver of the offending vehicle. The income of the deceased was assessed at Rs.9,000/- per month on the basis of pension being received by her. Considering the other relevant factors, the Tribunal awarded a sum of Rs.4,30,000/- along with interest at the rate of 7% per annum.

Arguments

6. Learned counsel for the appellant-Insurance Company submits that the claimants were not dependent upon the deceased. Both the daughters were married and aged above 40 years, whereas the other claimant was the grandson of the deceased. No evidence was adduced to establish that any of the claimants was financially dependent upon the deceased. Therefore, the Tribunal was not justified in calculating compensation by treating the pension received by the deceased as the basis for determining loss of dependency.

7. On the other hand, learned counsel for the respondents-claimants submits that the deceased was residing with her daughters and the claimants were receiving financial support from the pension being received by her. It is, therefore, submitted that the findings recorded by the Tribunal do not call for any interference.

Conclusion

8. Having considered the submissions advanced by learned counsel for the parties and having gone through the material available on record, the sole question which arises for consideration is as to whether the claimants, being legal representatives of the deceased but not shown to be dependent upon her, are entitled to the compensation awarded by the Tribunal on the basis of loss of dependency.

9. The facts which are not in dispute are that the deceased was aged about 70 years and was a widow. Her two surviving daughters were married and both were aged above 40 years. The third claimant is the son of the

daughter of the deceased who had died in the year 2015. Though it has been stated that the deceased was residing with her daughters, there is no satisfactory evidence on record to establish that the claimants were financially dependent upon the deceased or that the pension received by her was being regularly utilised for meeting their financial needs.

10. The distinction between the status of a legal representative and that of a dependent is required to be kept in view. In **Gujarat State Road Transport Corporation v. Ramanbhai Prabhatbhai and another 1987 AIR 1690**, the Hon'ble Supreme Court considered the expression "legal representative" and held that the said expression is not confined only to the spouse, parents and children of the deceased. A 'legal representative' ordinarily means a person who in law represents the estate of the deceased. The expression has to be given a wider meaning in the context of the Motor Vehicles Act and is not to be restricted merely on the basis of the traditional concept of heirs.

11. The aforesaid principle was considered by the Hon'ble Supreme Court in **Manjuri Bera v. Oriental Insurance Company Limited and another 2007 (10) SCC 643**, wherein the question of entitlement of a legal representative who was not dependent upon the deceased came up for consideration. In paragraphs 9 and 10, the Hon'ble Supreme Court noticed that all or any of the legal representatives can maintain a claim petition under Section 166 of the Act and that the expression "legal representative" is wider than the expression "legal heir". It was further noticed that a legal representative need not necessarily be a wife, husband, parent or child and that the expression has to be understood in its wider sense.

12. However, the aforesaid principle does not mean that every legal representative, merely by establishing such status, becomes entitled to compensation calculated on the basis of loss of dependency. The Hon'ble Supreme Court in paragraphs 11 and 12 of **Manjuri Bera** (Supra) has drawn a distinction between the right to maintain a claim and the quantification of compensation. It has been held that the liability under Section 140 of the Act does not cease merely because dependency is absent. At the stage of quantification, the multiplier method is essentially

a measure for determining the loss occasioned by deprivation of dependency. Therefore, where a legal representative is not dependent upon the deceased, the compensation cannot be worked out on the basis of loss of dependency; nevertheless, such legal representative would be entitled to compensation which cannot be less than the liability referable to Section 140 of the Act.

13. The principle is, therefore, that dependency is relevant for quantification of compensation, whereas the absence of dependency by itself does not take away the right of a legal representative to maintain a claim petition.

14. In the present case, the claimants may be treated as legal representatives of the deceased for the purpose of maintaining the claim petition. However, merely because the deceased was residing with her daughters, it cannot be presumed that the married daughters, who were above 40 years of age, were financially dependent upon their mother. Likewise, the mere fact that the third claimant is the grandson of the deceased, whose mother had predeceased the deceased, is not sufficient, in the absence of cogent evidence, to establish that he was dependent upon the pensionary income of the deceased.

15. The Tribunal, therefore, committed an error in treating the entire pension of Rs.9,000/- per month as the basis for determining loss of dependency and thereafter applying the multiplier. In the absence of proof of dependency, such calculation cannot be sustained.

16. The accident in the present case occurred on 04.10.2017. At the relevant time, Section 140 of the Motor Vehicles Act, 1988 provided for a fixed compensation of Rs.50,000/- in case of death arising out of a motor vehicle accident on the principle of no-fault liability.

17. The judgment in **Manjuri Bera** (supra) makes it clear that even where the claimant is a legal representative but is not dependent upon the deceased, the compensation cannot be less than the amount referable to Section 140 of the Act. Thus, in the facts of the present case, where no loss of dependency has been established, the claimants would be entitled to compensation of Rs.50,000/- under the principle contained in Section

140 of the Act, instead of Rs.4,30,000/- awarded by the Tribunal.

18. Accordingly, the compensation awarded by the Tribunal is liable to be reduced from Rs.4,30,000/- to Rs.50,000/-. The other findings of the Tribunal, including the finding regarding negligence of the offending vehicle, do not suffer from any error and are accordingly affirmed. The claimants shall, therefore, be entitled to a sum of Rs.50,000/- along with interest at the rate of 7% per annum from the date of filing of the claim petition till actual payment.

19. The judgment and award passed by the Motor Accident Claims Tribunal is modified to the extent that the amount of compensation awarded in favour of the claimants is reduced from Rs.4,30,000/- to Rs.50,000/-. The aforesaid amount of compensation, along with accrued interest, shall be disbursed equally amongst all the three claimants, subject to adjustment of any amount already received by them.

20. The remaining findings recorded by the Tribunal, including the finding regarding negligence of the driver of the offending vehicle, are affirmed. The amount, if any, deposited by the appellant-Insurance Company in excess of the modified award shall be adjusted/refunded in accordance with law.

21. In view of the above, the appeal is **partly allowed**.

(Anil Kumar-X,J.)

September 10, 2026
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