



FAO-5503-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision : 17.12.2024

The National Insurance Company Ltd.

..... Appellant

versus

Sonu alias Lali and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Rajneesh Malhotra, Advocate for the appellant.

Ms. Neha Bindal, Advocate for
Mr. Satbir Singh Gill, Advocate for respondent No.1.

Ms. Chetna, Advocate for respondents No.2 and 3.

PANKAJ JAIN, J. (ORAL)

1. The National Insurance Company is in appeal against the award passed by the Motor Accident Claims Tribunal, Sirsa dated 30.05.2019.

2. Counsel for the appellant submits that the claimant being married sister of the deceased and living separately could not have maintained the claim petition being not dependent upon the deceased.

3. The aforesaid issue is no more *res integra* and stands decided by this Court in FAO-668-2024 titled **Liberty General Insurance Co. Ltd. Versus Manpreet Singh and another** decided on 16.07.2024 and observed as under:-

“3 Learned counsel for the appellant is not in a



position to dispute the fact that the matter is fully covered by binding precedent. Supreme Court in the case of ***Mrs. Hafizun Begum Vs. Md. Ikram Heque and ors. (2007) 10 SCC 715*** held as under :-

“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) of Code of Civil Procedure, 1908 (in short the 'CPC'), "legal representative" means a person who, in law, represents the estate of a deceased person, and includes any person who intermeddles 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 (AIR 1989 SC 1589)** 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 State Road Transport Corporation v. Ramanbhai Prabhatbhai and Anr. (AIR 1987 SC 1690)** 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.”*

4 The same was further followed by Supreme Court in **N.Jayasree & ors. Vs. Cholamandalam MS General Insurance Company Ltd., (2021) AIR (Supreme Court) 5218** wherein the Apex Court held as under :-

*“18. In the instant case, the question for consideration is whether the fourth appellant would fall under the expression ‘legal representative’ for the purpose of claiming compensation. In **Gujarat State Road Transport Corporation, Ahmedabad vs. Ramanbhai Prabhatbhai and Anr., (1987) 3 SCC 234** this Court while considering the entitlement of the brother of a deceased who died in a motor vehicle accident to maintain a claim petition under the provisions of the MV Act, held as under:*

“13. We feel that the view taken by the Gujarat High Court is in consonance with the principles of justice, equity and good conscience having regard to the conditions of the Indian society. Every legal representative who suffers on account of the death



*of a person due to a motor vehicle accident should have a remedy for realisation of compensation and that is provided by Sections 110A to 110F of the Act. These provisions are in consonance with the principles of law of torts that every injury must have a remedy. It is for the Motor Vehicles Accidents Tribunal to determine the compensation which appears to it to be just as provided in Section 110-B of the Act and to specify the person or persons to whom compensation shall be paid. The determination of the compensation payable and its apportionment as required by Section 110B of the Act amongst the legal representatives for whose benefit an application may be filed under Section 110A of the Act have to be done in accordance with well-known principles of law. We should remember that in an Indian family brothers, sisters and brothers' children and sometimes foster children live together and they are dependent upon the bread-winner of the family and if the bread-winner is killed on account of a motor vehicle accident, there is no justification to deny them compensation relying upon the provisions of the Fatal Accidents Act, 1855 which as we have already held has been substantially modified by the provisions contained in the Act in relation to cases arising out of motor vehicles accidents. We express our approval of the decision in **Megjibhai Khimji Vira v. Chaturbhai Taljabhagujri**, AIR 1977 Guj 195 and hold that the brother of a person who dies in a motor vehicle accident is entitled to maintain a petition under Section 110A of the Act if he is a legal representative of the deceased."*



19. In **Hafizun Begum (Mrs) vs. Mohd. Ikram Heque and Ors. (2007) 10 SCC 715** it was held that:

“7. ...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.”

20. In **Montford Brothers of St. Gabriel and Anr. vs. United India Insurance and Anr., (2014) 3 SCC 394** this Court was considering the claim petition of a charitable society for award of compensation on account of the death of its member. The appellant–society therein was a registered charitable society and was running various institutions as a constituent unit of Catholic church. Its members, after joining the appellant–society, renounced the world and were known as ‘brother’. In this case, a ‘brother’ died in a motor vehicle accident. The claim petition filed by the appellant–society seeking compensation on account of the death of aforesaid ‘brother’ was rejected by the High Court on the ground of



its maintainability. This Court after examining various provisions of the MV Act held that the appellant–society was the legal representative of the deceased ‘brother’. While allowing the claim petition it was observed as under:

*“17. A perusal of the judgment and order of the Tribunal discloses that although Issue 1 was not pressed and hence decided in favour of the appellant claimants, while considering the quantum of compensation for the claimants, the Tribunal adopted a very cautious approach and framed a question for itself as to what should be the criterion for assessing compensation in such case where the deceased was a Roman Catholic and joined the church services after denouncing his family, and as such having no actual dependents or earning? For answering this issue, the Tribunal relied not only upon judgments of American and English Courts but also upon Indian judgments for coming to the conclusion that even a religious order or an organisation may suffer considerable loss due to the death of a voluntary worker. The Tribunal also went on to decide who should be entitled for compensation as legal representative of the deceased and for that purpose it relied upon the Full Bench judgment of Patna High Court in **Sudama Devi v. Jogendra Choudhary, AIR 1987 Pat 239**, which held that the term “legal representative” is wide enough to include even “intermeddlers” with the estate of a deceased. The Tribunal also referred to some Indian judgments in which it was held that successors to the trusteeship and trust property are legal representatives within the meaning of Section 2(11) of the Code of Civil*



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Procedure.”

21. Coming to the facts of the present case, the fourth appellant was the mother-in-law of the deceased. Materials on record clearly establish that she was residing with the deceased and his family members. She was dependent on him for her shelter and maintenance. It is not uncommon in Indian Society for the mother-in-law to live with her daughter and son-in-law during her old age and be dependent upon her son-in-law for her maintenance. Appellant no.4 herein may not be a legal heir of the deceased, but she certainly suffered on account of his death. Therefore, we have no hesitation to hold that she is a “legal representative” under Section 166 of the MV Act and is entitled to maintain a claim petition.”

4. The objections raised sans merit and cannot be accepted. However, counsel for the claimant has pointed out to a calculation error in the award which shows that deduction ought to have been made 25% and dependency 75%. Counsel for the appellant, however, points out that the same should be 1/2 under both the heads. The impugned order is modified to the extent that dependency be calculated to the extent of 50%.

5. The appeal stands disposed off.

(PANKAJ JAIN)
JUDGE

17.12.2024
A.Kaundal

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No