

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Dinesh Kumar Sharma

CO 1820 of 2023

**Tarun Paramanik
Vs.**

Jharna Paramanik & Ors.

For the petitioners:	Mr. Jayanta Kr. Mondal, Adv., Mr. Sayantan Rakshit, Adv.
For the opposite party no. 1 & 2:	Mr. Tapas Dey, Adv., Mr. Prasenjit Saha, Adv.
For the respondent no.3:	Ms. Sucharita Paul, Adv.

Reserved on: **29.10.2025**

Judgment on: **19.11.2025**

Dinesh Kumar Sharma, J.:

1. Briefly, stated the facts are that Late Jamuna Pramanik and opposite party no. 1 and 2 Smt. Jharna Pramanik and Satarupa Pramanik filed a claim case no. being MAC 61 of 2015 on account of death of Shri. Kishore Pramanik under Motor Vehicle Act. During the pendency of the petition Smt. Jharna Pramanik mother of the deceased expired. The petitioner herein filed an application under Order 22 Rule 3 read with Section 151 CPC for impleading the legal heirs of Late Smt. Jamuna Pramanik. The said

application was dismissed by the learned tribunal vide order dated December 6, 2022 primarily on the ground that the legal heirs of late Jharna Pramanik were not dependent upon the income of the deceased. The petitioner aggrieved of this has filed this petition, challenging the impugned order predominantly on the ground that learned tribunal failed to appreciate that since petitioner no.3 late Jamuna Pramanik, mother of the deceased expired during the pendency of the petition, her legal heirs are entitled to her share of compensation as per law of succession. Learned counsel for the petitioner further submits that if the legal heirs are not substituted the claim of late Jamuna Pramanik shall extinguish.

2. Learned Counsel for the opposite party has vehemently opposed the petition and submitted that the learned tribunal has rightly dismissed the application for substitution of legal heir. Learned counsel submits that provisions of Order 22 shall not be applicable in the present proceedings. Learned counsel further submits that initially the brothers and sisters of the deceased, who are seeking to be impleaded, did not file the claim petition as the dependant legal heir/representative of the deceased and, therefore, on account of death of Late Jamuna Pramanik the petitioner and opposite party no. 5 and 8 cannot be impleaded. Learned counsel further submits that on the death of the mother of the deceased now the claim shall only be divided amongst the opposite party no.1 and 2. Reliance has been placed upon Balak Ram vs. Leela Devi & Ors., 2025 HSC 18262.

3. Section 166 of the Motor Vehicle Act, 1988 provides that in case of a death resulting from the accident, all or any of the legal representatives of the deceased may file an application for compensation. It is pertinent to mention here that Section 166 of the Motor Vehicle Act is a piece of benevolent legislation and, therefore, the interpretation of the provisions has to be done by the Court in accordance with the intention of the legislature. The endeavor of the court should be to fulfill the purpose of law. It is also necessary to mention here that, “right to apply for compensation” and “entitlement to compensation” are two different issues. The person who has applied for compensation cannot straightway lead to conclusion that such claimant is entitled to compensation. The “dependency” and “entitlement” to compensation would depend upon the evidence and material produced during the trial. The Courts time and again, have given a wider interpretation to the concept of persons entitled to claim compensation.
4. It is a settled proposition that Motor Vehicles Act, 1939 (amended from time to time) Act creates new and enlarged right for filing an application for compensation and such right cannot be limited by the limitations on an action under Indian Fatal Accidents Act, 1855, being Act XIII of 1855. Reliance may be placed upon Gujarat State Road Transport Corporation, Ahmedabad vs. Raman Bhai, Prabhat Bhai, 1987 ACJ 1279.
5. It is also necessary to mention that Section 166 of the Motor Vehicle Act specifically provides that all or any of the legal representative of the deceased may file an application for compensation.

6. Admittedly, the mother of the deceased namely Jamuna Parmanik was alive at the time of filing the petition. During the pendency of the petition said Smt Jamuna Parmanik died and her legal heirs filed the application for substitution of legal heirs. The Court is of the considered opinion that the legal heirs of late Jamuna Parmanik cannot be denied their right to impleadment as the compensation to be awarded to late Jamuna Pramanik would certainly enure to the estate of the mother which her legal heirs would be entitled to succeed.
7. In Saraswathy Amma vs. Ashok Kumar, 2016 (1) ACJ 67 Kerala the question before the Court whether the mother of the deceased who survived her death of her son; but expired before the claim for compensation was decided' ought to have been impleaded and on her death; whether her legal heirs are to be impleaded. The Kerela High Court in this case, inter alia, as held as under:

“7. The very same reasoning applies here. The mother being alive at the time of death of her son and having died only subsequently, while the claim was pending, her claim survives on her legal heirs. Support can be garnered also from Ali (Late) v. Sumesh 2010 KHC 6219: 2010 (3) KLT 70 and Jaya v. Shaji MANU/KE/1192/2013: 2014 (1) KHC 4: 2014 (1) KLT 31: 2014 (1) KLJ 174: AIR 2014 Ker. 19. In other words, the mother of the injured/deceased is entitled along with the other legal representatives, to claim for compensation under Section 166 of the MV Act and such compensation ensures to the estate of the mother; which her legal heirs would be entitled to succeed to. The mother of the deceased was alive when the son died in the accident and remained alive for another three years. Probably, the future dependency would be confined to three years, during which period she was alive. But, however, it cannot be said that the mother was not a necessary party. The proviso to Section 166 also indicates that all legal representatives, if not impleaded as petitioners, shall be impleaded as respondents to the application. If the mother, at the time of death of her son and for the period in which she was alive after his death, was entitled to some compensation, then, definitely she had to be impleaded. On the mother passing-away in the course of the proceedings; definitely

her legal heirs ought to be impleaded in the claim petition. Their claim would be limited to succeed to what their predecessor-in-interest was entitled to claim. In such circumstances, the petitioners have to implead the legal heirs of the deceased mother of deceased Rajendrakurup. The impugned order is upheld”.

8. Whether to what extent the legal heirs of Late Jamuna Pramanik would be entitled to compensation would depend upon the evidence to be led by the parties. The Court considers that the learned Trial Court has fallen into error by rejecting the application of the legal heirs of Late Jamuna Pramanik for impleading them in place of their mother Late Jamuna Pramanik. In fact in the present case the legal heirs sought to be impleaded would merely be prosecuting the claim of their mother who died during the pendency of the petition. The judgment cited by the learned counsel for the opposite party Balak Ram (Supra) of Himachal Pradesh High Court is respectfully distinguishable of the facts and circumstances of the case
9. Hence, the revision petition is allowed. Impugned order is set aside. The legal heirs of Jamuna Pramanik be impleaded in the petition. However, the “just compensation”, if any, awarded to the legal heirs is to be determined by the Tribunal independently on the basis of the material on record.
10. Petition and all pending application stands disposed of.

(Dinesh Kumar Sharma, J.)