



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision : 10.12.2025

1. FAO-2304-2021

Deepak @ Pardeep (Since deceased) through his LRs Appellant

versus

Vinod Kumar and others

..... Respondents

2. FAO-2950-2020 (O&M)

New India Assurance Company Ltd.

..... Appellant

versus

Dinesh Chhokar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Paul S. Saini, Advocate
for the appellant in FAO-2950-2021.

Mr. Rajesh Bansal, Advocate
for the appellant in FAO-2304-2021.

Mr. Narender Kumar Sharma, Advocate
for respondent No.1 in FAO-2950-2020.

Mr. Najim Khilluka, Advocate
for respondent No.3 in FAO-2950-2020.

PANKAJ JAIN, J. (Oral)

1. These cross appeals are directed against award dated 01.02.2020 passed by MACT, Panipat.

2. FAO No.2950 of 2020 is at the behest of the insurance company challenging the award disputing the locus of the claimants.

3. The claimants happened to be brothers of the deceased. The issue with respect to locus of legal representatives is no more *res integra*



and has been laid to rest by Supreme Court in the case of ***National Insurance Company Limited vs. Birender and others 2020(11) SCC 356***, wherein the Supreme Court observed as under:-

“14. The legal representatives of the deceased could move application for compensation by virtue of clause (c) of Section 166(1). The major married son who is also earning and not fully dependant on the deceased, would be still covered by the expression "legal representative" of the deceased. This Court in Manjuri Bera (supra) had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the concerned legal representative. Notably, the expression "legal representative" has not been defined in the Act. In Manjuri Bera (supra), the Court observed thus:-

"9. In terms of clause (c) of sub-section (1) of Section 166 of the Act in case of death, all or any of the legal representatives of the deceased become entitled to compensation and any such legal representative can file a claim petition. The proviso to said sub-section makes the position clear that where all the legal representatives had not joined, then application can be made on behalf of the legal representatives of the deceased by impleading those legal representatives as respondents. Therefore, the High Court was justified in its view that the appellant could maintain a claim petition in terms of Section 166 of the Act.

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) 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 Le. under Section 2(1)(g).

12. As observed by this Court in ***Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Nuique [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."

In paragraph 15 of the said decision, while adverting 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 meagre income between ₹1,00,000/- and ₹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.”

4. Relationship not being in dispute and the brothers being one of the legal representatives and legal heirs as per the Hindu Succession Act, 1956. The plea raised by the insurance company disputing the locus of the claimants sans merit and is hereby rejected.

5. Consequently, the appeal preferred by the insurance company is hereby ordered to be dismissed.

6. Claimants are also in appeal seeking enhancement of compensation. Counsel for the claimants-appellants claims that as per oral testimony of the claimants, deceased was an agriculturist and was earning more than Rs.20,000/- per month. There being no evidence to rebut the same, the Tribunal erred in assessing the deceased as an unskilled labourer. Reliance is being placed upon ratio of law laid down by Supreme Court in ***Civil Appeal No.2322 of 2025*** titled as '***Nur Ahamad Abdulasad Kanavi vs. Abdul Munaf & Ors***', wherein Supreme Court while referring to ratio of law laid down in ***Chandra @ Chnada @ Chandraram vs Mukesh Kumar Yadav, 2022 (1) SCC 198***, observed as under:-



“9. We have heard the learned counsel for the parties. We are unable to agree with the view taken by the Tribunal and High Court on the income of the Appellant. This Court in **Chandra v. Mukesh Kumar Yadav** had placed reliance on the statement of the deceased's wife therein to establish the income of the person. Similarly, in the absence of any material to discard the oral evidence of PW1 Wife, we deem it appropriate to fix the monthly income of the Claimant-Appellant as Rs.10,000/-.

7. *Per contra*, Mr. Saini submits that the oral testimony of the claimants cannot be believed in the absence of there being any evidence to prove the land holding of the deceased.

8. Having heard counsel for the parties and after carefully perusing the records of the case, this Court finds that the reliance being placed upon ratio of law laid down in **Nur Ahamad Abdulasad Kanavi's case (supra)**, is misconceived.

9. In the present case, it is neither the deceased/victim who has proved his income nor his wife who could be said to have any personal knowledge of the income of the deceased. It is only the brother who has maintained the present claim petition. Though he claimed his brother to be an agriculturist, but failed to bring on record any evidence qua his land holding.

10. In view of above, no fault can be found with the Tribunal assessing the income of the deceased relying upon the minimum wages notified by State on the relevant date.

11. However, the Tribunal has not awarded any amount under the head of loss of consortium. Accordingly, the award passed by MACT, Panipat is modified to the extent that each of the applicants is held to be entitled to an amount of Rs.48,000/- on account of loss of



consortium. The appellants shall also be entitled to interest @ 7% per annum from the date of filing of the petition till the date of actual realization on the enhanced amount.

12. With the aforesaid modification, the appeals are disposed off.

13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

14. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

10.12.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No