



**222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 02.07.2025

FAO-7220-2017 (O&M)
FAO-7224-2017 (O&M)

NEW INDIA ASSURANCE COMPANY LTD.
Versus

....Appellant

RAVINDER KAUR AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. R.C. Gupta, Advocate
for the appellant.

None for respondent No.1.

Mr. Inderjit Sharma, for respondents No.2 & 3.

PANKAJ JAIN, J. (ORAL)

The insurance company in instant appeal is aggrieved of the award(s) passed by MACT, Rupnagar.

2. The primary contention raised by Mr. Kapoor is that it is a case wherein claimant Ravinder Kaur lost her two daughters. He submits that it has come on record that claimant Ravinder Kaur herself is employed and is getting salary. He thus submits that she cannot be treated as dependant upon her deceased daughters. Accordingly, the formula involving dependency factor, would not be applicable.

3. I have heard counsel for the appellant and have carefully gone through records of the case.



4. The law *re*: right to file claim petition under Section 166 of the Motor Vehicles Act, 1988, is well settled. Legal representative of the deceased is competent to file claim petition seeking compensation. The quintessential objective of the Act is to make sure that the legal representatives even though could not be compensated for the loss they suffer, but should be placed in the position as if the loss has not occurred owing to the motor vehicle accident.

5. Supreme Court in the case of ‘**Smt. Manjuri Bera vs. The Oriental Insurance Company Limited and another, (2007)10 SCC 643**’ relied upon by Mr. Kapoor, wherein Supreme Court observed as under:

“11. According to Section 2(11) of Civil Procedure Code, "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 Supreme Court 1589)* the definition contained in Section 2(11) Civil Procedure Code 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 Supreme Court 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.”

5. Though, Mr. Kapur relies upon the ratio which held that the married daughter may not be held to be dependent and thus not entitled for compensation, but the said ratio would not be applicable to the present case.

6. Keeping in view that in the Indian social ethos embroidered on the fabric of the institution of the family, parents in old age always look towards their young offspring, it cannot be held that a mother would not have been dependent upon her young daughters. It would militate not only against the objective of the Act but also against the social ethos. Law cannot be interpreted in divorce to social realities. Accordingly, the argument raised by Mr. Kapoor is ordered to be rejected being without basis.

7. Faced with the situation, Mr. Kapoor refers to the quantum of compensation assessed by the Tribunal and submits that future prospects @ 50% ought not have been awarded and dependency ought to have been assessed at 1/2 and not 1/3. He thus submits that even under conventional heads an amount of Rs.1.00 lac for loss of love and affection and Rs.25,000/- has been granted for funeral expenses, which is exorbitant and is against the ratio of law laid down by Supreme Court in the case of **‘Pranay Sethi and others’, (2017) 16 SCC 680.**



8. Finding that the plea raised by Mr. Kapoor w.r.t. quantum of compensation, is fully covered by ratio of law laid down in *Pranay Sethi's* case (supra), the same is accepted. Accordingly, the award is modified to the extent that future prospects granted by the Tribunal @ 50% stand modified to 40%. Deduction on account of dependency shall be 1/2 instead of 1/3. The claimant shall be entitled for loss of consortium of Rs.48,000/-. An amount of Rs.18,000/- is granted for funeral expenses and Rs.18,000/- for loss of estate.

9. With the aforesaid modification in the impugned award, the instant appeals are disposed off.

10. Yesterday Mr. Sharma claimed that cross-objections have been filed and sought adjournment but today he admits that though cross-objections were filed but could not be listed due to objections raised by registry.

11. Pending application(s), if any, shall also stand disposed off.

12. A copy of this order be kept on the file of other connected case.

July 02, 2025

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No