



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

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**FAO-6578-2018 (O&M)
Date of decision : 25.04.2025**

United India Insurance Company Ltd.**..... Appellant**

versus

Krishan and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Sanjiv Pabbi, Advocate
for the appellant.

Mr. Ravinder Hooda, Advocate
for respondents No.1 and 2.

PANKAJ JAIN, J. (Oral)

1. The only issue involved in the instant appeal is whether the brother of the deceased can maintain claim petition seeking compensation under Section 166 of the Motor Vehicles Act, 1988 qua death of the deceased. Section 166 of the Act enlist the persons who are competent to make application for compensation. The same reads as under:-

“166. Application for compensation.—(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

- (a) by the person who has sustained the injury; or
- (b) by the owner of the property; or
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
- (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:



Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

[Provided further that where a person accepts compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.]

[(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:[***]]

[(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.]

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under [section 159] as an application for compensation under this Act.]

[(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.]”

2. The word legal representative shall include legal heir. Section 8 of the Hindu Succession Act deals with general rule of succession in the case of males. The same reads as under:-

“8. General rules of succession in the case of males.— The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter—

- (a) firstly, upon the heirs, being the relatives specified in class I of the Schedule;
- (b) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule;
- (c) thirdly, if there is no heir of any of the two classes,



then upon the agnates of the deceased; and

(c) lastly, if there is no agnate, then upon the cognates of the deceased.”

3. Admittedly, mother of the brother has predeceased him. He had no legal heir in class I. In terms of Section 8(b), if there is no heir of clause I, the property of a male hindu shall devolve upon the heirs being the relatives specified in class II of the schedule. Class II of the schedule reads as under:-

“CLASS II

- I. Father.
- II. (1) Son’s daughter’s son, (2) Son’s daughter’s daughter, (3) brother, (4) sister.
- III. (1) Daughter’s son’s son, (2) daughter’s son’s daughter, (3) daughter’s daughter’s son, (4) daughter’s daughter’s daughter.
- IV. (1) Brother’s son, (2) sister’s son, (3) brother’s daughter, (4) sister’s daughter.
- V. Father’s father ; father’s mother.
- VI. Father’s widow ; brother’s widow.
- VII. Father’s brother ; father’s sister.
- VIII. Mother’s father ; mother’s mother.
- IX. Mother’s brother ; mother’s sister.

Explanation.—In this Schedule, reference to a brother or sister do not include references to a brother or sister by uterine blood.”

4. Item No.II(3) provides for brother. In view thereof, this Court has no hesitation holding that brother being one of the class II legal heirs in the absence of heirs of clause I, shall fall within the ambit of legal representative as contemplated under Section 166 of the Motor Vehicles Act and shall be entitled to maintain the claim petition in the facts and circumstances.

5. Accordingly, finding no merit in the present appeal, the same is ordered to be dismissed.



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

(PANKAJ JAIN)
JUDGE

25.04.2025

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Whether speaking/reasoned : Yes

Whether Reportable : No