IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1649 OF 2025

Manager, Royal Sundaram Insurance Co. Ltd.,
At Post Saimidas Tush, 2nd Floor,
Office No.208, Nagar-Manmad Road,
Parichay Hotel, Near Daule Hospital,
Ahmednagar

Through its Authorized Signatory
Royal Sundaram Alliance Insurance Co. Ltd.
Adalat Road, 2nd Floor,
Sakar Building, Near Kranti Chowk,
Chhatrapati Sambhajinagar-4310001 ...Appellant
(Orig. Respondent No.2)

VERSUS

1. Prakash Balasaheb Kale
   Age: 44 years, Occu: Labourer

2. Kiran Balasaheb Kale
   Age: 42 years, Occu: labourer

   Both R/o. At Post Rahuri (Kd), Taluka Rahuri
   Dist. Ahmednagar

3. Eknath Sukhdeo Chavan
   Age: 43 years, Occu; Tractor driver and owner
   R/o. At Post Mategaon, Tq. & Dist. Beed ...Respondents
(Respondent Nos.1 and 2-Orig. Claimants,
respondent NO.3-Orig. Respondent No.1)

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Mr. M. R. Deshmukh, Advocate for the Appellant
Mr. S. B. Tarde, Advocate for respondent Nos.1 and 2
Ms. Neha Udavant h/for Mr. S. J. Salunke, Advocate for respondent No.3

....

CORAM : SANJAY A. DESHMUKH, J.
DATE : 12.01.2026

ORAL JUDGMENT :-

1. This appeal is preferred against the judgment and award passed by the learned Motor Accident Claims Tribunal, Ahmednagar in M.A.C.P. No.358 of 2020 dated 19.12.2023.

2. Learned advocate for the appellant submitted that in the cross-examination of the claimant-Kiran, he has admitted that he is serving as a Mason in M/s A. S. Warale, Engineers and Building Contractors and that his brother Prakash is also serving there. He submitted that both the claimants, being real brothers aged about 38 and 40 years, are the elder brothers of the deceased Kundan and were not dependent upon his income. Learned advocate for the appellant further submitted that the claimants are at the most only entitled to compensation towards loss of property. However, this aspect was not considered by the learned Member, Motor Accident Claims Tribunal, Ahmednagar. He, therefore, prayed to allow the appeal by setting aside the impugned judgment and award. In support of his submissions, he relied upon the judgment of Hon'ble Supreme Court in case of ***The New India Assurance Company Limited VS. Anand Pal***

and Others, arising out of SLP (Civil) No.7805 of 2022, in which paragraph no.5 reads as under:

> "5. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents because they will either be independent and earning, or married, or be dependent on the father."

3. Learned advocate for the respondent Nos.1 and 2-claimants submitted that respondent Nos.1 and 2 were dependent upon the income of deceased Kundan, who died in the vehicular accident. He submitted that they are dependents of deceased Kundan, as they are real brothers, and therefore they are entitled to compensation. He lastly prayed to dismiss the appeal. In support of his submissions, he relied upon the following authorities:

a. ***National Insurance Company Limited Vs. Birender and Others, reported in (2020) 11 SCC 356***, in which paragraph No.12 reads as under:

> *"12. 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 dependent on the deceased, would be still covered by the expression "legal representative of the deceased. This Court in Manjuri Bera had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the legal representative concerned. Notably, the expression "legal representative" has not been defined in the Act. In Manjuri Berat, the Court observed thus: (SCC pp. 647-48 paras 9-12)*
>
> *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 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 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 Prabhatbhais 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."

b. ***Gujarat State Road Transport Corporation Ahmednagar Vs. Ramanbhai Prabhatbhai and Another, reported in (1987) 3 SCC 234,*** wherein, in paragraph No.13, it is held that we should remember that in an Indian family brothers, sisters and brothers' children and some times 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.

c. ***Montford Brothers of St. Gabriel and Another Vs. United India Insurance And Another, reported in (2014) 3 SCC 394,*** in which paragraph No.13 reads as under:

> *"13. From the aforesaid quoted extract it is evident that only if there is a justification in consonance with principles of justice, equity and good conscience, a dependant of the deceased may be denied right to claim compensation. Hence, we find no merit in the submission advanced on behalf of the respondent Insurance Company that the claim petition is not maintainable because of the provisions of the Fatal Accidents Act."*

d. ***Manjuri Bera (Smt) Vs. Oriental Insurance Company Ltd. And Another, reported in (2007) 10 SCC 643,*** in which paragraph No.13 reads as under:

> *"13. There are several factors which have to be noted. The liability under Section 140 of the Act does not cease because there is absence of dependency. The right to file a claim*

> *application has to be considered in the background of right to entitlement. While assessing the quantum, the multiplier system is applied because of deprivation of dependency. In other words, multiplier is a measure. There are three stages while assessing the question of entitlement. Firstly, the liability of the person who is liable and the person who is to indemnify the liability, if any. Next is the quantification and Section 166 is primarily in the nature of recovery proceedings. As noted above, liability in terms of Section 140 of the Act does not cease because of absence of dependency.*

4. Nobody will dispute the ratio laid down in the above authorities.

5. perused the impugned judgment and award as well as the oral and documentary evidence adduced by the claimants. On perusal of the cross-examination of claimant Kiran at Exhibit-16, it is admitted that he is serving in M/s A. S. Warale, Engineers and Building Contractors as a Mason and his brother is also serving there. It is not pointed out that their salaries were meager or the deceased Kundan was earning higher amount of salary than them and he was financially contributing to them.

6. In the absence of evidence of dependency, though the claimants are relatives of the deceased as pointed out by learned advocate for the claimants, they are not entitled to compensation towards loss of dependency, as they have not suffered any economic

loss. However, the claimants are entitled to compensation under the caption of loss of consortium i.e., Rs.44,000/- total. They are also entitled to Rs.15,000/- towards filial expenses, such as loss of company, loss of guidance and mental pains etc. They are also entitled to Rs.15,000/- towards expenses incurred for carrying the dead body from the place of accident to the hospital and thereafter to their residence. They are also entitled to Rs.10,000/- towards loss of estate i.e., clothes and other articles worn by the deceased Kundan at the time of accident. It is also found that learned Tribunal has not awarded no fault liability. Therefore, the claimants are entitled to Rs.50,000/- towards no fault liability. Thus, the claimants are entitled to total compensation of Rs.1,34,000/-. The appeal, therefore, deserves to be partly allowed. The impugned judgment and award deserves to be partly set aside. Hence, the following order:

::**ORDER**::

a. The first appeal is partly allowed.

b. The impugned judgment and award is partly set aside and modified as under:

c. The claimants are entitled to compensation of Rs.1,34,000/- from the appellant and Respondent No.3 jointly and severally. The said amount be paid to them equally along with accrued interest thereon.

d. Award be drawn up accordingly.

e. Pending civil applications, if any, stand disposed of.

f. remaining amount be repaid to the appellant-insurance company.

[SANJAY A. DESHMUKH, J.]

HRJadhav