

Navnath Waghmare (RA)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO 1193 OF 2025

Reliance General Insurance Co.Ltd. ...Applicant
Versus
John Philip Rodrigues (Insured) And Ors. ...Respondents
WITH
CROSS-OBJECTION (ST) NO. 29187 OF 2025
WITH
INTERIM APPLICATION NO. 9179 OF 2025
WITH
INTERIM APPLICATION 11371 OF 2025

John Philip Rodrigues (Insured) And Ors. ...Applicants
Versus
Reliance General Insurance Co.Ltd. ...Respondent
WITH
FIRST APPEAL (ST) NO. 3278 OF 2025
WITH
INTERIM APPLICATION NO. 1406 OF 2025
WITH
INTERIM APPLICATION NO. 1405 OF 2025

Reliance General Insurance Co.Ltd. ...Applicant
Versus
Masilamani M. Chettiar and Ors ...Respondents
WITH
INTERIM APPLICATION (ST) NO. 19845 OF 2025
Masilamani M. Chettiar and Ors ...Applicants
Versus
Reliance General Insurance Co.Ltd. ...Respondent

Ms. Kalpana Trivedi a/w Shreenath Trivedi for the Applicant.
Mr. T.J. Mendon, a/w Tulshiram Kale a/w Aaditya V. Kode,
Advdhut Bidaye i/b Bidaye & Associates for the Respondent Nos.3
and 4 in FA 1193 of 2025 and Respondent in FA(ST) 3278 of
2025.

**Mr. Tushar Shingte, a/w Vasant More, Saif Kazmi for the
Respondent N No. 1 & 2.**

CORAM: R. M. JOSHI, J.

**JUDGMENT:- RESERVED ON 27th FEBRUARY, 2026
PRONOUNCED ON 16th MARCH, 2026**

1. By consent of both sides heard and decided together, since both appeals arise from same judgment and award dated 12.03.2025 passed in MACP No. 1142 of 2021.
2. Insurer, filed appeal challenging claimants right to seek compensation and quantum of compensation and instant thereon being excessive / exorbitant.
3. Whereas, original opponent No.1 and 2, i.e. parents in law of deceased, filed appeal as it is held by Tribunal that they are not entitled to receive any compensation.
4. Learned counsel for insurer drew attention of Court to the evidence on record to contend that Tribunal granted excessive compensation ignoring material evidence on record. She also took exception to the interest awarded by Tribunal to be on higher side.
5. Learned counsel for the original claimants i.e. Parents of deceased, so also original Opponents No.1 and 2 i.e. parents in

law, supported judgment of the entirety and to extent of quantum, respectively.

6. Learned counsel for the parents in law of deceased submits that Tribunal committed error in denying compensation to them on the ground that they are neither legal representatives of deceased nor were dependent upon her. He drew attention of Court to claim petition filed by parents of deceased, wherein it is not pleaded that parents in law are neither legal representatives nor dependent upon deceased. Similarly, it is not so claimed in the evidence on oath by claimant. It is therefore submitted that Tribunal could not have denied compensation to them, without objection being taken to that effect. According to him the term legal representative has been interpreted by Supreme Court which includes even a person who intermeddles with the estate of the deceased and though not necessarily legal heir. It is further held that legal heir are persons, who are entitled to inherit estate of the deceased and legal heir may also be legal representative. To support this submission he placed reliance on *N. Jayasree & Ors v. Cholanmandalam MS General Insurance Company Limited (2022) 14 SCC 712* and *Montford Brothers of St. Gabriel and Anr. Vs. United Insurance & Anr (2014) 3 SCC 394*. He further submitted that in view of identical provision of Section 166 of the Motor Vehicle Act, 1988 (Section 110 A of of the old Act), the judgment of *Gujrat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai & Anr (1987) 3 SCC 234* is applicable to the present case, where the claim filed by brothers of deceased is held to be

reasonable. Finally he took aid of judgment of Supreme Court in the case of *National Insurance Co. Ltd. Vs. Birender and Ors 2020, ACJ 759* and judgment of this Court in the case of *Bajaj Alianz General Insurance Co. Ltd. Vs. Sunita Veredra (2025) 1 Mah LJ-368*, to buttress his submissions.

7. Learned counsel for the claimants i.e. parents of deceased, supported exclusion of in-laws from entitlement of receipt of compensation. It is his contention that deceased is a Christian and Parents-in-law are not legal representative being not legal heirs of deceased. According to him since claimants are entitled to inherit estate of deceased, they became legal representative of deceased. To support his submissions, reliance is placed on *Manohar Maruti Ghule Vs. Dang Sanjeev 2014 ACJ -717*, Bombay High Court. *Devaki Vs. The Managing director KSRTC, MACA No. 1787 of 2021* Kerala High Court and *Glory bai Vs. S.K.A Noorjahan Beevi & ors 2013 ACJ 32*, Madras High Court. He further argued that Parents-in-law of deceased had filed claim petitions on death of husband and son of deceased & also received compensation and therefore they are not entitled to get any amount of compensation in this proceedings.

8. In an unfortunate accident occurred on 01.07.2021, Ms. Luiza Jeromita Rodrigues @ Luiza Joaquim Chettiar and her husband and son died. They were traveling in Motor Car bearing No. MH-48-AW-2796 and were dashed by offending vehicle, i.e. motor trailer No. GJ-12-BV 4687. Deceased was aged 35 years and

employed with Colgate Palmolive India Ltd., drawing salary of Rs. 59,500/-p.m., parents of deceased filed claim, joining her parents-in-law as opponents.

9. Owner of offending vehicle failed to appear before Tribunal inspite of service and hence claims preceded *ex-parte*. Insurer however contested claim by filing written statement & challenging evidence led by claimants. The claimants have proved age and income of the deceased by examining Venkatraman Ramchandra (AW2). Nothing could be elicited by Insurer in his cross examination to disbelieve his testimony. The claimants therefore succeeded in proving the employment and income of deceased. Similarly, there is no dispute about correct application of multiplier and addition of future prospects. On the basis of evidence on record, this Court found, no perversity in the determination of amount of compensation by Tribunal, so also, grant of interest @ 7% is fully justified.

10. Now question arises whether the Appellants/ Parents-in-law of the deceased would be entitled to receive compensation on account of death of deceased. Tribunal held that parents-in-law of deceased had received compensation on account of death of their Son and Grandson, so also get service benefit of son and the parents of deceased having obtained succession certificate from competent Court. On these two counts, Tribunal excluded parents-in-law from entitlement to receive compensation. At this stage it

would be relevant to take note of provisions of Section 166 of the Motor Vehicles Act, which reads thus:

CHAPTER- XII CLAIMS TRIBUNALS

Section 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."

11. Perusal of this provision indicates that application for compensation may be made by legal representatives of the deceased when death has resulted from accident involving Motor Vehicle. The proviso further indicates that in the application for claim of compensation, all legal representatives shall be impleaded as respondents.

12. In the backdrop of the said provision, parents-in-law are joined as party opponents to the claim petition. It is nowhere stated in the petition that they are neither dependents on deceased nor it is specifically claimed that parents-in-law are not entitled to seek / receive any compensation. Pertinently, claimant No.1 in his evidence does not claim so. It seems that only at the time of arguments before Tribunal, challenge is raised to the right to receive compensation of them. Moreover, from the impugned judgment and award it appears that the said objection was mainly for the reason that the parents-in-law of deceased received service benefits of their son and also compensation on account of death of son and grandson. To support such claim reliance is placed on Succession Certificate obtained by parents of deceased from Competent Court.

13. The term legal representative has not been defined in the Act. The Hon'ble Supreme Court in case of *N Jaysree (supra)* has dealt with the same and observed that:

"14. The MV Act does not define the term "legal representative". Generally, legal representative means a person who in law represents the estate of the deceased person and includes any person or persons in who legal right to receive compensatory benefit vests. A "legal representative" may also include any person who intermeddles with the estate of the deceased. Such person does not necessarily have to be a legal heir. Legal heir are the persons who are entitled to inherit the surviving

estate of deceased. A legal heir may also be a legal representative.

15. Indicatively for the present inquiry, the Kerala Motor Vehicles Rules, define the term " legal representative" as under:

"2.(k) Legal representative" means a person who in law is entitled to inherit the estate of the deceased if he had left any estate at the time of his death and also includes any legal heir of the deceased and the executor or administrator of the estate of the deceased."

"16. In our view, the term "legal representative" should be given a wider interpretation for the purpose of Chapter XII of the MV Act and it should not be confined only to mean the spouse, parents and children of the deceased. As noticed above, the MV Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the underlying the enactment and fulfil its legislation intent. We are also of the view that in order to maintain a claim petition, it is sufficient for the claimant to establish his loss of dependency. Section 166 of the MV Act makes it clear that every legal representative who suffers on account of the death of a person in a motor vehicle accident should have a remedy for realisation of compensation.

14. It is thus held that the term "legal representatives" is not confined to the spouse, parents or children of deceased. Considering the object of providing monetary relief to the victims or their families, it is sufficient that the claimant is dependent and establishes loss of dependency. It is further made clear there that

every legal representative who suffers on account of death of a person in a motor vehicular accident should have a remedy for compensation.

15. Similarly in case of Gujrat State Road Transport Corporation (supra) in para 11 to 13 of judgment it is held that:

"11. Clauses (b) and (c) of sub-section (1) of Section 110-A of the Act provide that an application for compensation arising out of an accident may be made where death has resulted from the accident by all or any of the legal representatives of the deceased or by any agent duly authorised by all or any of the legal representatives of the deceased. The proviso to sub-section (1) of Section 110-A provides 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. The expression "legal representative" has not been defined in the Act. Section 2(11) of the Code of Civil Procedure, 1908 defines "legal representative as 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. The

above definition, no doubt, in terms does not apply to a case before the Claims Tribunal but it has to be stated that even in ordinary parlance the said expression is understood almost in the same way in which it is defined in the Code of Civil Procedure. A legal representative ordinarily means a person who in law represents the estate of a deceased person or a person on whom the estate devolves on the death of an individual. Clause (b) of sub-section (1) of Section 110-A of the Act authorises all or any of the legal representatives of the deceased to make an application for compensation before the Claims Tribunal for the death of the deceased on account of a motor vehicle accident and clause (c) of that sub-section authorises any agent duly authorised by all or any of the legal representatives of the deceased to make it. The proviso to sub-section (1) of Section 110-A of the Act appears to be of some significance. It provides that the application for compensation shall be made on behalf of or for the benefit of all the legal representatives of the deceased. Section 110-A(1) of the Act thus expressly states that (i) an application for compensation may be made by the legal representatives of the deceased or their agent, and (ii) that such application shall be made on behalf of or for the benefit of all the legal representatives. Both the person or persons who can make an application for compensation and the persons for whose benefit such application can be made are thus indicated in Section 110-A of the Act. This section in a way is a substitute to the extent indicated above for the provisions of Section 1-A of the Fatal

Accidents Act, 1855 which provides that "every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased". While the Fatal Accidents Act, 1855 provides that such suit shall be for the benefit of the wife, husband, parent and child of the deceased. Section 110-A(1) of the Act says that the application shall be made on behalf of or for the benefit of the legal representatives of the deceased. A legal representative in a given case need not necessarily be a wife, husband, parent and child. It is further seen from Section 110-B of the Act that the Claims Tribunal is authorised to make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid. This provision takes the place of the third para of Section 1-A of the Fatal Accidents Act, 1855 which provides that in every such action, the court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought. Persons for whose benefit such an application can be made and the manner in which the compensation awarded may be distributed amongst the persons for whose benefit the application is made are dealt with by Section 110-A and Section 110-B of the Act and to that extent the provisions of the Act do supersede the provisions of the Fatal Accidents Act,

1855 insofar as motor vehicle accidents are concerned. These provisions are not merely procedural provisions. They substantively affect the rights of the parties. As the right of action created by the Fatal Accidents Act, 1855 was "new in its species, new in its quality, new in its principles, in every way new" the right given to the legal representatives under the Act to file an application for compensation for death due to a motor vehicle accident is equally new and an enlarged one. This new right cannot be hedged in by all the limitations of an action under the Fatal Accidents Act, 1855. New situations and new dangers require new strategies and new remedies.

*12. Amongst the High Courts in India there is a cleavage in the opinion as regards the maintainability of action under Section 110-A of the Act by persons other than the wife, husband, parent and child of the person who dies on account of a motor vehicle accident. All these cases are considered by the High Court of Gujarat in its decision in **Megjibhai Khimji Vira v. Chaturbhai Taljabhai**.² The first set of cases are those which are referred to in para 5 of the above decision which lay down that every claim application for compensation arising out of a fatal accident would be governed by the substantive provisions in Sections 1-A and 2 of the 1855 Act and no dependent of the deceased other than the wife, husband, parent or child would be entitled to commence an action for damages against the tortfeasors. Amongst these cases are **P.B. Kader v. Thatchamma**⁵ and **Dewan Hari Chand vs Municipal Corporation of Delhi**.⁶ The second group of cases are those*

referred to in para 6 of the decision of the Gujarat High Court. They are **Perumal v. G. Ellusamy Reddiar⁷** & **Vanguard Insurance Co. Ltd. v. Chellu Hanumantha Rao⁸**. These cases lay down that while the compensation payable under Section 1-A of the Fatal Accidents Act, 1855 is restricted to the relatives of the deceased named therein the compensation payable under Section 2 thereof may be awarded in favour of the representatives of the deceased who are entitled to succeed to the estate of the deceased. The third group of cases are those referred to in para 7 of the judgment of the Gujarat High Court. They are **Mohammed Habibulla VK. Seethammal⁹**, **Veena Kumari Kohli vs. Punjab Roadways¹⁰** and **Ishwar Devi Malik Smt v. Union of India¹¹** which take the view that a claim for compensation arising out of the use of a motor vehicle would be exclusively governed by the provisions of Sections 110 to 110-F of the Act and bears no connection to claims under the 1855 Act and the Claims Tribunal need not follow the principles laid down under the latter Act. Having considered all the three sets of decisions referred to above, Ahmadi, J. who wrote the judgment in **Megjibhai Khimji Vira v. Chaturbhai Taljabhai²** came to the conclusion that an application made by the nephews of the deceased who died on account of a motor vehicle accident was clearly maintainable under Section 110-A of the Act.

13. We feel that the view taken by the Gujarat High Court is in consonance with the principles of justice, equity and good conscience having regard to the conditions of the Indian

*society. Every legal representative who suffers on account of the death of a person due to a motor vehicle accident should have a remedy for realisation of compensation and that is provided by Sections 110-A to 110-F of the Act. These provisions are in consonance with the principles of law of torts that every injury must have a remedy. It is for the Motor Vehicles Accidents Tribunal to determine the compensation which appears to it to be just as provided in Section 110-B of the Act and to specify the person or persons to whom compensation shall be paid. The determination of the compensation payable and its apportionment as required by Section 110-B of the Act amongst the legal representatives for whose benefit an application may be filed under Section 110-A of the Act have to be done in accordance with well-known principles of law. 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 relying upon the provisions of the Fatal Accidents Act, 1855 which as we have already held has been substantially modified by the provisions contained in the Act in relation to cases arising out of motor vehicles accidents. We express our approval of the decision in **Megjibhai Khimji Vira v. Chaturbhai Taljabhar**² and hold that the brother of a person who dies in a motor vehicle accident is entitled to*

maintain a petition under Section 110-A of the Act if he is a legal representative of the deceased."

16. Hon'ble Supreme Court in the case of Montford Brothers (supra) held that where the deceased who renounced the family and joined Church, on account of her accidental death, the claim petition filed by Church is held maintainable.

17. The law laid down by the Hon'ble Supreme Court therefore distinguishes the entitlement of legal heir to inherit estate of deceased and right of a legal representative to seek compensation on the ground of loss of dependency. There is no dispute about the fact that in the present case legal heir of deceased would be entitled to inherit her estate, however it cannot be said so in respect of claim for compensation on account of loss of dependency.

18. In the case in hand, certain facts are undisputed such as deceased married to son of Appellants and the said marriage subsisted till unfortunate death of both. The parents-in-law are joined as party opponents to the claim petition in terms of proviso to Section 166 of the Act. There is no pleadings that the parents-in-law were neither dependent on deceased nor such contention appears in evidence on oath of claimant No.1. thus practically no dispute is made by the claimants i.e. parents of deceased about the parents-in-law being not 'legal representatives' of the deceased. In such case, the tribunal without such plea being raised

in claim petition ought not to have accepted arguments made on behalf of claimant for exclusion of parents-in-law to receive compensation on account of loss of dependency.

19. In our society unless otherwise established there is reason to believe that even after marriage, a daughter takes care of her parents so also parents-in-law. Both parents-in-law as well as parents are required to be considered as dependents on deceased, in absence of any contrary evidence. In respect of the estate left behind by the deceased, legal heir would be entitled to claim the same, however, the compensation on account of loss of dependency, would not be considered as estate left behind by deceased in order to only legal heir to be entitled to receive the same. To hold so, would be contrary to the law settled by the Hon'ble Supreme court, in above cited judgment on behalf of parents-in-law. These judgment squarely apply to the present case.

20. On the other hand, judgment in case of *Mantford (supra)* holds that parents of deceased married lady are entitled to maintain claim for compensation, Kerala High Court in case of *Devaki (supra)* has dealt with the right of legal heir to receive estate of deceased. In case of *Glory Bai (Supra)* Madras High Court has held that father-in-law as legal representative can seek compensation on account of death of daughter-in-law in motor vehicular accident.

21. In the case in hand, what seems weighed to Tribunal for denying compensation to parents-in-law is that parents had obtained succession certificate and that parents-in-law received employment benefits of their son and compensation for death of Son & Grandson. As held above, person who is dependant upon the deceased is included in term 'legal representative' and therefore obtainment of succession certificate by parents of deceased, would not become ground to deny compensation to parents-in-law who are legal representatives & dependents upon deceased. Similarly, receipt of compensation by parents-in-law of deceased on account of death of their son and grandson, can never become a reason for denying them compensation. What tribunal would have done is to consider the said fact, while apportionment of compensation amount. The findings recorded by tribunal denying right of compensation therefore cannot sustain and deserves interference.

22. Considering the fact that the parents-in-law have received compensation on account of death of their son, they are held to be entitled to receive 1/3rd compensation in present claim. The remaining 2/3rd compensation would be received by claimants i.e. parents of decease. Impugned judgment and order also therefore stands modified to that extent.

23. Hence, the following order:

- i. Appeal filed by Insurer stands dismissed.

- ii. Appeal filed by Original Opponent No. 1 and 2 stands partly allowed.
- iii. It is held that original claimants shall be entitled to receive 2/3rd compensation and parents-in-law i.e. original opponent No.1 and 2 to receive 1/3rd compensation out of the total amount of compensation granted by tribunal.
- iv. Rest of the judgment and award is maintained.

(R. M. JOSHI, J.)