





whereby the property of the legal representatives has been attached, be stayed. It is further prayed that Criminal Appeal No. *CRA/115/2020* titled as “*Raj Karan vs. Smt. Jagwanti*” deserves to be restored.

2. Briefly, the chronology of facts is that the respondent/complainant Smt. Jagwanti filed a complaint under Section 138 of the Negotiable Instruments Act against Raj Karan (since deceased). The said complaint culminated in conviction of the accused Raj Karan vide judgment dated 20.02.2020, whereby he was sentenced and directed to pay compensation. Aggrieved against the said judgment of conviction, the accused preferred Criminal Appeal No. *CRA/115/2020* before the Ld. Sessions Judge, Bhiwani. During the pendency of the appeal, the convict/appellant Raj Karan (since deceased) deposited 20% of the cheque amount for suspension of his sentence. However, during the pendency of the appeal, he expired on 27.05.2023. Thereafter, the respondent/complainant moved an application dated 15.07.2023 for impleadment of legal representatives of the deceased appellant. In pursuance thereof, Smt. Bina, widow of deceased Raj Karan, appeared before the Court and made a statement that she is not interested in pursuing the appeal, being an old lady. The learned counsel for the appellant also made a statement that none of the legal representatives of the deceased appellant intends to pursue the appeal further. On the basis of the said statements, the Ld. Appellate Court observed that the legal representatives are not interested in prosecuting the appeal and accordingly held that the appeal stands abated, while granting liberty to proceed against the legal representatives for recovery of compensation. Subsequently, the present petitioners, being legal representatives of the



deceased, moved an application for restoration of the appeal, however, the said application was dismissed by the Ld. Additional Sessions Judge, Bhiwani vide impugned order dated 12.01.2026.

3. Learned counsel for the petitioners has contended that both the impugned orders are illegal, arbitrary and contrary to law. It is argued that the appeal against conviction under Section 138 of the Negotiable Instruments Act, which includes a sentence of fine/compensation, does not abate upon the death of the appellant, and therefore the order dated 19.02.2024 is legally unsustainable. It is further contended that the statement allegedly made by Smt. Bina, widow of the deceased, was without proper understanding and without any authority on behalf of other legal representatives and thus cannot bind their rights. It is argued that the learned counsel for the appellant also made a statement without any valid instructions from all legal heirs, and therefore the same cannot form the basis for abatement of the appeal. It is further submitted that the petitioners were never afforded an opportunity of hearing before passing the impugned orders, and the same have been passed behind their back, in violation of principles of natural justice. It is also contended that the petitioners had no knowledge of the proceedings leading to abatement and came to know about the same only when execution proceedings were initiated for recovery of compensation from the estate of the deceased. It is thus argued that the application for restoration of appeal was wrongly dismissed, and the petitioners, being legal representatives, have a vested right to prosecute the appeal on merits. Accordingly, both the impugned orders deserve to be set aside and the appeal is liable to be restored.



4. *Per contra*, learned counsel for respondent No.1/complainant has vehemently opposed the present revision petition and supported the impugned orders. It is contended that the learned lower Appellate Court has rightly dismissed the application and there is no illegality or infirmity in the orders passed. It is further submitted that it was the complainant/respondent himself who had moved the application for impleadment of the legal representatives of the deceased appellant during the pendency of the appeal, and the same was duly considered by the learned Appellate Court. The said application, however, was opposed by the opposite side, and the Court proceeded in accordance with law. Learned counsel submits that it has been specifically recorded in the impugned order that the learned counsel for the appellant had made a statement before the Court that none of the legal representatives of the deceased appellant intended to pursue the appeal further. In addition thereto, one of the legal representatives, namely Smt. Bina (widow of the deceased), had also appeared before the Court and categorically suffered a statement that she does not wish to pursue the present appeal. On the strength of these statements, it is argued that the learned Appellate Court rightly came to the conclusion that the legal representatives were not interested in prosecuting the appeal and, therefore, the appeal was rightly ordered to be abated. It is thus contended that the impugned orders have been passed after due consideration and do not suffer from any illegality, arbitrariness or perversity warranting interference by this Court.

5. I have heard learned counsel for the parties at length and have carefully perused the record. At the outset, it is necessary to examine the



legal position governing abatement of appeals in cases where the sentence involves fine/compensation, particularly in prosecutions under Section 138 of the Negotiable Instruments Act. The Hon'ble Supreme Court in ***Ramesan (Dead) through LR. Girija A. vs. State of Kerala, 2020(1) RCR (Criminal) 782*** has categorically held that where there is a composite sentence of imprisonment and fine, the appeal does not abate on the death of the accused, as the liability of fine survives and is recoverable from the estate of the deceased. It has further been held that in such cases, the legal representatives are entitled to be heard on the aspect of sentence of fine, and an opportunity must be afforded to them. Similarly, the Calcutta High Court in ***M/s Krishna and Associates Pvt. Ltd. And Ors. vs. The State of West Bengal and another***", 2025 ACD 435 has reiterated that in cases involving compensation under Section 357(3) Cr.P.C. read with Section 138 of the Negotiable Instruments Act, the proceedings do not abate upon the death of the accused, and the legal representatives can be substituted for the purpose of adjudication and recovery of compensation from the estate of the deceased. In the said case also, the factual matrix was akin to the present one, wherein the application for substitution of legal representatives was moved, and it was held that the matter cannot be allowed to abate merely on account of death, particularly when compensation is involved. In view of the aforesaid settled legal position, it is evident that the appeal arising out of conviction under Section 138 of the Negotiable Instruments Act, which entails liability of compensation, could not have been treated as abated in toto upon the death of the appellant. The legal representatives, being affected



by the liability of compensation recoverable from the estate, have a vested right to be heard and to prosecute the appeal.

6. Coming to the facts of the present case, it is apparent that the learned Appellate Court, while passing the order dated 19.02.2024, proceeded primarily on the basis of the statement made by one of the legal representatives, namely Smt. Bina, and the statement of learned counsel for the appellant that none of the legal representatives were interested in pursuing the appeal. However, there is nothing on record to show that all the legal representatives were duly served, represented, or had authorized the counsel to make such a statement on their behalf. The order does not reflect any conscious satisfaction of the Court that all necessary parties were before it or that an effective opportunity of hearing was afforded to them. The approach of the learned Appellate Court, therefore, appears to be mechanical, inasmuch as it proceeded to record abatement of the appeal without ensuring compliance with the principles of natural justice and without appreciating the settled legal position that such an appeal does not abate where compensation is involved. The subsequent order dated 12.01.2026, whereby the application for restoration of the appeal was dismissed, also suffers from the same infirmity, as the Court failed to correct the earlier illegality and did not consider the binding legal principles governing the issue. In the considered opinion of this Court, once it is established that:

(i) the appeal did not abate in law,

(ii) all legal representatives were not afforded an adequate opportunity of hearing, and



(iii) the statements relied upon were not shown to be duly authorized on behalf of all legal representatives, the impugned orders cannot be sustained.

7. Accordingly, both the impugned orders dated 19.02.2024 and 12.01.2026 are hereby set aside. The present revision petition is allowed, and Criminal Appeal No. **CRA/115/2020** titled as **“Raj Karan vs. Smt. Jagwanti”** is restored to its original number and shall be decided afresh on merits in accordance with law after affording due opportunity to all concerned parties.

8. However, in so far as the prayer for stay of execution proceedings is concerned, this Court does not find it appropriate to grant blanket stay at this stage. The execution proceedings shall continue in accordance with law, subject to any appropriate orders that may be passed by the learned Appellate Court in the restored appeal. The parties are directed to appear before the learned Appellate Court on a date to be fixed by that Court.

9. The present revision petition stands disposed of accordingly.

10. All pending applications, if any, also stand disposed of.

04.05.2026

Anu

(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No