

FAO-3731-2015 (O&M)

2026:PHHC:048703



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

FAO-3731-2015 (O&M)

Decided on : 06.03.2026

Deepak

....Appellant

Versus

Vikram & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Hardeep Singh Kasan, Advocate
for the appellant.

Mr. Akshay Laller, Advocate for
Mr. Jitender Kundu, Advocate
for respondents No.1 & 2.

Mr. Sachin Ohri, Advocate
for respondent No.3-Ins. Co.

PANKAJ JAIN, J. (ORAL)

1 Claimant is in appeal aggrieved of the award passed by Motor Accident Claims Tribunal, Sonipat whereby claim petition preferred by the appellant seeking compensation on account of death of his brother Sukhbir @ Monu in a motor vehicular accident dated 25.05.2014 at the age of 24 years stands dismissed holding that the claimant was not dependent upon the deceased.

2 As per the claimant, the deceased lost his life in a motor vehicular accident on account of rash and negligent driving of respondent No.1. He further claimed that he is younger brother of the deceased-Sukhbir @ Monu.



Their parents predeceased Sukhbir and he was totally dependent upon income of deceased-Sukhbir.

3 Tribunal dismissed the claim application holding that the claimant failed to prove that he was dependent upon deceased and is thus not entitled for any compensation.

4 The issue regarding maintainability of claim petition preferred at the behest of major legal representative of the deceased has been answered by Supreme Court in the case of ***National Insurance Company Limited Vs. Birender & ors., Civil Appeal Nos.242-243 of 2020 (Arising out of SLP (Civil) Nos.976-977 of 2020*** observing as under :-

14. 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 dependant on the deceased, would be still covered by the expression “legal representative” of the deceased. This Court in Manjuri Bera (supra) had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the concerned legal representative. Notably, the expression “legal representative” has not been defined in the Act. In Manjuri Bera (supra), the Court observed thus:—

“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* [1989 Supp (2) SCC 275] 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 Prabhatbhai* [(1987) 3 SCC 234] 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.”

In paragraph 15 of the said decision, while advertng to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is



observed that there is distinction between “right to apply for compensation” and “entitlement to compensation”. The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning.

15. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependant on the deceased and not to limit the claim towards conventional heads only. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meagre income between Rs.1,00,000/- and Rs.1,50,000/- per annum. In that sense, they were largely dependant on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years.”

5 Claimant further testified while appearing as PW-1 as under :-

“4. That the father of the deceased had already expired and recently the mother of the deceased has already been expired after the above said accident and the deponent is the only legal heir of deceased Sukhbir @ Monu and the deceased was doing the work of agriculture and was running a dairy as well as Khumbi/Mushroom farming and was giving advise to other persons, who are engaged in the work of Khumbi/Mushroom



farming. The deceased was youth of very sober habits. The deceased was earning more than Rs.30,000/-per month.

5. of That the deponent being younger brother the deceased Was totally dependent upon the income of deceased and the deceased used to contribute almost all his income upon the better future of the deponent.

6. That the said accident has caused of only due to rash and negligent driving of the respondent No.1 while driving offending car bearing No. PB-10EC-7999 at a very high speed in rash and negligent manner without following the traffic rules.

7. of the deceased. The That the deponent is the real younger brother deponent has lost his young elder brother and the deponent has lost his only elder brother in his tinny age, when the deponent was in acute need of the support and guidance of his elder brother to built his better future. The deponent has been deprived from the love and affection of deceased. Hence, all the respondents are to jointly and severally liable pay the compensation amount and the petition of the deponent be decreed as prayed for.”

6 He was cross examined on the issue of dependency to the following effect :-

“Deceased Sukhbir was unmarried. It is correct that after the marriage, the deceased have to contribute towards his own personal family. It is wrong to suggest that I was not dependent on the deceased or that the accident was not caused by respondent No.1 or that the vehicle and the respondent No.1 had been falsely implicated in the alleged accident and I am deposing falsely.”



7 In view of above, this Court finds that the specific case of the claimant that having lost his parents he was totally dependent upon his brother stands proved and has gone unrebutted. The findings recorded by Tribunal thus on issues No.2 and 3 cannot sustain and are hereby set aside. Though claimant claimed that his brother was doing dairy farming and was an agriculturist, but he has failed to adduce any evidence to prove the same. Accordingly, this Court has no other option but to rely upon the minimum wages notified by the State of Haryana as applicable on the date of accident, i.e. 25.05.2014. Minimum wages notified by State of Haryana for unskilled workers for the relevant time were Rs.11,581/-. Future prospects of 40% need to be added. Deduction of 50% needs to be applied. Keeping in view the age of the deceased, multiplier of 18 will be apt. The claimant is awarded an amount of Rs.48,400/- on account of loss of consortium. Rs.18,000/- is awarded for funeral expenses. Rs.18,000/- is awarded for loss of estate.

8 With the aforesaid modification in the impugned award, the appeal is disposed off.

9 Needless to say, the appellant shall be entitled to interest @7% per annum for the period commencing from date of filing of the claim petition till the date of actual realization.

06.03.2026

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No