

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

**FAO-5069-2018 (O&M)
Date of decision : 27.01.2026**

IFFCO TOKIO GENERAL INSURANCE COMPANY LIMITED

....Appellant

Versus

GURWINDER AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

**Present : Mr. Ankur Gupta, Advocate
for the appellant (through V.C.).**

PANKAJ JAIN, J. (ORAL)

Present appeal is directed against order dated 23.05.2018 passed by MACT, Amritsar whereby the claim application filed by the respondents/claimants under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of their father Dheera Singh in a motor-vehicular accident, dated 29.10.2016, has been allowed granting them compensation of Rs.35,21,703/- along with interest.

2. Insurance Company is in appeal. The primary ground raised in appeal is w.r.t. locus of the claimants to file claim petition on the ground that they are major sons and daughter of deceased Dheera Singh.

3. Counsel for the appellant submits that the claimants being major children of the deceased, were not dependent upon the deceased and thus the claim petition at their behest is not maintainable.



4. The issue raised by counsel for the appellant is no more *res integra* and now stands adjudicated by Supreme Court in the case of **National Insurance Company Limited vs. Birender and others, 2020(1) RCR (Civil) 694** wherein it has been held as under:

“12. We have heard Mr. Amit Kumar Singh, learned counsel for the insurance company (appellant) and Ms. Abha R. Sharma, learned counsel for the respondent Nos. 1 and 2. The principal issues which arise for our consideration are as follows:-

- (i) Whether the major sons of the deceased who are married and gainfully employed or earning, can claim compensation under the Motor Vehicles Act, 1988 (for short, 'the Act')?
- (ii) Whether such legal representatives are entitled only for compensation under the conventional heads?
- (iii) Whether the amount receivable by the legal representatives of the deceased under the 2006 Rules is required to be deducted as a whole or only portion thereof?

13. Reverting to the first issue - that needs to be answered on the basis of the scheme of the Act. Section 166 of the Act provides for filing of application for compensation by persons mentioned in clauses (a) to (d) of sub-Section (1) thereof. Section 166 of the Act, as applicable at the relevant time, reads thus:-

"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.

(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: Provided that where no claim for compensation under Section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

(3) ***

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act."

(emphasis supplied)

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).

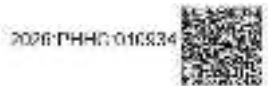
12. As observed by this Court in *Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Naique [1989 Supp (2) SCC 275* the definition contained in Section 2(11) CPC is inclusive in character and its scope is wide, it is not confined to legal heirs only. Instead it stipulates that a person 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 L 1,00,000/- and L 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. In view of the ratio of law and as per the mandate of the statute, the claimant is not required to be dependent, but needs to be legal heir of the deceased. Relationship between deceased Dheera Singh and the claimants being not in dispute, this Court finds no reason to interfere in the present appeal. The same is accordingly, dismissed.

6. Pending application, if any, shall also stands disposed off.

January 27, 2026		(Pankaj Jain)
Dpr		Judge
	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No