

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



243(cases) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on : 03.02.2026

Pronounced on : 01.05.2026

Uploaded on : 01.05.2026

1) XOBJC-227-CII-2017 IN/AND FAO-5554-2017 (O&M)

NEW INDIA ASSURANCE COMPANY LTD. ...APPELLANT

VS.

SUSHIL KUMAR AND OTHERS ...RESPONDENTS

2) XOBJC-229-CII-2017 IN/AND FAO-5558-2017 (O&M)

NEW INDIA ASSURANCE COMPANY LTD. ...APPELLANT

VS.

SUSHIL KUMAR AND OTHERS ...RESPONDENTS

Whether only operative part of the judgment is pronounced? No

Whether full judgment is pronounced? Yes

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vinod Gupta, Advocate
for the appellant.

Mr. Sagar Dangi, Advocate and
Mr. R.P. Dangi, Advocate
for respondent Nos.1 & 2.

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



PANKAJ JAIN, J.

By way of this common judgment, I intend to dispose off two appeals along with two cross-objections arising out of two claim petitions bearing MACT Nos. 98 of 2015 and 99 of 2015, titled *Sushil Kumar & another versus Inder Bahadur & others*, which were decided by a common award dated 28.04.2017, passed by the Motor Accident Claims Tribunal, Rohtak (for short, “the Tribunal”).

2. Both the claim petitions arise out of the same motor vehicular accident and were, therefore, consolidated and decided together by the Tribunal. The insurance company has preferred two appeals challenging the award passed in favour of the claimants, whereas the claimants have filed cross-objections seeking enhancement of compensation.

3. The claim petitions were filed under Section 166 of the Motor Vehicles Act, 1988. FAO No.5554 of 2017 arises out of Claim Petition No. 98 of 2015, wherein compensation has been sought on account of the death of Ashwani Kumar, who expired at the age of 58 years. In the connected claim petition bearing No. 99 of 2015, compensation has been claimed on account of the death of Smt. Kiran.

4. The primary contention raised by the insurance company is that both the claimants are major and married and were not dependent upon the deceased, namely Ashwani Kumar and Smt. Kiran, and therefore, the claim petitions are not maintainable.

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



5. This issue is no longer *res integra*. It is well settled that legal representatives are entitled to maintain a claim petition under Section 166 of the Motor Vehicles Act, 1988. The statute does not mandate that such legal representatives must be dependents of the deceased as in the case of Employees' Compensation Act, 1923.

6. The said issue has been authoritatively settled by the Supreme Court in *National Insurance Company Limited vs. Birender and others*, 2020(1) RCR(Civil) 694, wherein it has been observed 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*

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



(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

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



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

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



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

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



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.....”

7. The aforesaid view has been followed by this Court in ***FAO No.5069 of 2018, titled as Iffco Tokio General Insurance Co. Ltd. Vs. Gurwinder and others, decided on 27.01.2016***, observing as under:-

“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.....”

8. In view of the settled legal position, the objection raised by the insurance company regarding maintainability of the claim petitions is devoid of merit and is hereby rejected.

Quantum of Compensation

9. The compensation is required to be re-assessed as under in light of the principles laid down by Supreme Court in ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298; National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** and ***Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram &ors., 2018(4) RCR (Civil) 333:-***

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



(i) Claim Petition No. 98 of 2015 (Death of Ashwani Kumar)
Date of Accident : 7.9.2015

Sr.No.	Particulars	Details
1.	Age of Deceased	58 years
2.	Future prospects	10%
3.	Deduction	1/2
4.	Multiplier	9
5.	Loss of Consortium	Rs.48,400/- each
6.	Loss of Estate	Rs.18,000/-
7.	Funeral Expenses	Rs.18,000/-

The compensation is reworked accordingly.

(ii) Claim Petition No. 99 of 2015 (Death of Smt. Kiran)
Date of Accident : 7.9.2015

Sr.No.	Particulars	Details
1.	Age of Deceased	49 years
2.	Occupation	Homemaker
3.	Notional Income	Rs.10,000/- per month
4.	Multiplier	13
5.	Loss of Consortium	Rs.48,400/- each
6.	Loss of Estate	Rs.18,000/-
7.	Funeral Expenses	Rs.18,000/-

The compensation is re-worked on the above basis.

10. The rate of interest shall remain same as awarded by the Tribunal. The total compensation awarded hereinabove shall be apportioned equally between both the claimants.

11. Both the appeals filed by the insurance company are **dismissed**. The cross-objections filed by the claimants stand **allowed** to the extent indicated above.

12. Photocopy of this order be placed on file of the connected case.

FAO-5554-2017 (O&M) with XOJC-227-CII-2017
FAO-5558-2017 (O&M) with XBJC-229-CII-2017

2026:PHHC:067861



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

May 01, 2026
ashish

(PANKAJ JAIN)
JUDGE

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