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MA-293-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ON THE 29th OF JANUARY, 2026MISC. APPEAL No. 293 of 2023*RAMDAYAL CARPENTER AND OTHERS**Versus**IFFCO TOKYO GENERAL INSURANCE CO. LTD.*

Appearance:

Shri Abhishek Gilke - Advocate for the appellants.

Shri Sudarshan Pandit and Shri Rajesh Pandit - Advocate for respondent No.1.

Heard on : 06.10.2025

Pronounced on : 29.01.2026

ORDER

This appeal under Section 173 of the Motor Vehicles Act, 1988 (for brevity 'MVA') filed by the appellants/claimants raises a significant question that in case of death of owner and his wife in an accident involving insured vehicle, if a claim is filed by their children for the death of wife and not the owner without impleading anyone else except the insurance company, then whether such claim is maintainable or not? The challenge is made to the impugned award dated 03.11.2022 passed by the Claims Tribunal in Claim Case No. 160/2019.

2. The facts of the present case are that on 04.03.2019 deceased Ratanbai was going along with her husband Shivnarayan on the insured vehicle i.e. motor cycle bearing registration No.MP 42 MF 2391 as a pillion



rider from Khilchipur to their village Paldiya. At about 7:00 pm in the evening, when they reached near Devmaharaj place at village Lima Chouhan between Sandawta Sarangpur road, Shivnarayan was driving the motor cycle in a rash and negligent manner because of which the bike got disbalanced resulting in felling down of Ratanbai. She sustained grievous injuries and was tried to be taken to hospital however, she died on the way. The rider/owner of the vehicle Shivnarayan also sustained grievous injuries and was taken to Gokuldas Hospital for treatment. But he succumbed to the injuries and died during treatment. As such the owner of the vehicle and his wife died in the accident. The owner was the rider and wife was the pillion rider. The appellants/claimants are the son and daughter of the above two deceased persons. They filed claim petition under Section 166 of the MVA for death of Ratanbai. It is to be taken note of that they did not file any claim petition for death of owner of the vehicle Shivnarayan but for the death of their mother Ratanbai who was the pillion rider.

3. The Claims Tribunal recorded the evidence and concluded that Ratanbai died due to the injuries sustained by her in the accident caused due to rash and negligent driving of Shivnarayan. It also concluded that the vehicle was duly ensured with the respondent/insurance company and there was no breach of the terms of insurance policy found by the Tribunal. The Tribunal then quantified the amount of compensation to the tune of Rs. 10,79,672/-. However, while considering the issue of payment, the compensation was denied by holding in para 52 of the impugned award that the deceased Ratanbai was the wife of deceased Shivnarayan who was the



owner. Thus, on the death of Shivnarayan, Ratanbai will become owner of the vehicle being his legal representative but as Ratanbai has also died thus, the claimants will become owner of the vehicle and consequently, Ratanbai being not the third party, the insurance company is not responsible for paying compensation. As such, the claim petition was dismissed.

4. Learned counsel appearing for the appellants/claimants has raised a plea that merely being related to the insured does not mean that the said person is not a third party unless they are the insured themselves or their representative. He submits that the present is a case of peculiar facts. In the present case there is owner of the vehicle who died in the accident and wife of the owner of the vehicle who also died in the same accident and children of both of them are the claimants. The claim petition was consciously filed for death of Ratanbai-the wife and not for Shivnarayan-the owner. As such, Ratanbai being the wife of the owner has to be treated as third party and not his legal representative because she, in fact died before Shivnarayan because Ratanbai-wife died on the way to hospital whereas Shivnarayan-the owner died during treatment in the hospital. Thus, the death of Ratanbai occurred while the owner Shivnarayan was alive. Therefore, the Claims Tribunal has wrongly concluded that Ratanbai was legal representative of Shivnarayan. Thus, she cannot be treated as legal representative of Shivnarayan.

5. In support of his contentions, learned counsel for the appellants has placed reliance on the following judgments *The New India Insurance Company Ltd. vs. Nallasivam., (2014) ACJ 1595 of the Madras High Court;* *United India Insurance Co. Ltd. vs. Kulwant Kaur & Ors., (2015) ACJ 531*



of the Himachal Pradesh High Court; Francis K.T. vs. Sabu Augustine & Ors., (2016) ACJ 1074 of the Kerala High Court; Thakur Uma Rani vs. Thakur Giridhar Singh, (2020) ACJ 1400 of the Telangana High Court; Royal Sundaram Alliance Ins. Co. Ltd. vs. S.Sivaram, 2023 ACJ 2553 of the High Court of Judicature at Madras, Madurai Bench; Passi Lampu Sherpa & Anr. vs. Branch Manager, New India Assurance Co. Ltd., 2024 ACJ 2145 of the High Court of Sikkim At Gangtok; New India Assurance Co. Ltd. vs. Kanta Devi & Ors., 2024 ACJ 2152 of the High Court of Delhi at New Delhi.

6. Controverting to the submissions of counsel for the appellants, the learned counsel for the respondent/insurance company submits that the deceased Ratanbai on the death of her husband-owner would step into the shoes of the owner. The legal representatives of the deceased who stepped into the shoes of the owner of the vehicle could not have claimed compensation even under Section 163A of the MVA, whereas in the present case, the claim petition was filed under Section 166 of the MVA. Learned counsel further submits that in the peculiar facts of the present case, the claimants have deliberately not made owner as party respondent and it is only the insurance company which has been impleaded as party respondent. He submits that in absence of owner on record, the insurance company is not obliged to indemnify anyone as there is no owner at all. He submits that this was a deliberate act of the appellants/claimants that they did not implead owner because on the death of Shivnarayan and Ratanbai in fact, claimants have become owner of the vehicle. In this view of the matter, the learned



counsel for the respondent would submit that the rejection of claim petition was in accordance with law. In support of his contentions, learned counsel for the respondent has placed reliance on the judgment of the Hon'ble Apex Court in case of *Ningamma & Anr. vs. United India Insurance Co. Ltd., 2009 (3) TAC 13 (SC)* and *Oriental Insurance Co. Ltd. vs. Sunita Rathi & Others, (1998) 1 SCC 365*.

Heard learned counsel for the parties. Perused the record.

7. Section 50 of the MVA provides for transfer of ownership. It provides that in case of death of a registered owner, the persons succeeding the possession of the vehicle or as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicle in their name. As such, the death of owner of the vehicle would entail transfer of ownership to the legal heirs of the owner however, that has to be done by a proper procedure as provided under Section 50 of the MVA.

8. Section 155 of the MVA provides the effect of death on certain causes of action which is reproduced as under :

"155. Effect of death on certain causes of action. - Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925 (39 of 1925), the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of such event against his estate or against the insurer."

9. It is thus clear that death of owner and consequential absence of owner in a claim case, in the considered view of this Court will not absolve the insurer from its liability to pay compensation. The insurer in a peculiar case like the present cannot escape from its liability to pay compensation. In



such unfortunate circumstances where the owner and his wife died and there remain children who, by virtue of inheritance, become their legal representatives. This would not mean that the insurer has no legal liability to pay compensation for death of even the wife of owner. In the considered view of this Court, the learned Tribunal has wrongly concluded that in view of death of owner of the vehicle, the wife of the owner has become his legal representative thus, no more remained third party.

10. The Madras High Court in case of *Nallasivam (supra)*, while considering a similar issue observed that except the insured, all other would become third party. It will not make any difference that there was a relation of husband and wife between the deceased the owner and thus, directed the insurance company to pay compensation.

11. Similarly, the Himachal Pradesh High Court in case of *Kulwant Kaur (supra)* has held that death of the owner in the same accident does not prevent the maintainability of the claim petition by the legal representatives. The purpose of compensation under the Act is to assist those who have lost person) upon whom they were dependent and depriving the claimant on the ground that the deceased owner was not a party would defeat this purpose. Thus, even in absence of owner, the Court directed the insurance company to pay compensation. Similarly, in the case of *Thakur Uma Rani (supra)*, the Telangana High Court considered the liability of the insurance company and held that the insurance company is liable to pay compensation for the death or injury to a pillion rider on a two-wheeler irrespective of the fact of relation between the owner and the pillion rider. Similar was the opinion of



the Madras High Court in case of *S.Sivaram (supra)*.

12. The Andhra Pradesh High Court in case of *R.Kamala vs. Shaik Mohd. Ghouse & Anr., (2004) ACJ 2112* while considering the provisions of Section 155 of the MVA observed that the cause of action survives against estate of the owner or insurer. Thus, it was ultimately held that appeal would not abate for the absence of owner and the insurance company is liable to pay compensation. Thus, the contention of learned counsel for the insurance company that in absence of presence of owner as party-respondent the compensation cannot be directed to be paid as there is nobody to indemnify by the insurance company, is not sustainable.

13. As regards the issue of compensation to the claimants for death of Ratanbai, it is hereby held that Ratanbai, on facts and also on law cannot be termed to be the owner of the vehicle on the death of Shivnarayan. The provisions of Section 50 of MVA would show that ownership does not transfer automatically but a procedure is prescribed in as much as an application has to be filed before the concerned authority in terms of Section 50 for transfer of ownership. In the present case, significantly Ratanbai died on the way to the hospital and Shivnarayan died during treatment. As such, even on fact, Ratanbai cannot be treated as legal representative of the deceased Shivnarayan as she died before the death of Shivnarayan. Thus, at the time of her death she was a third party as Shivnarayan was alive.

14. The reliance as placed by the learned counsel for the insurance company on the judgment in the case of *Ningamma (supra)* is misplaced. In the said case, issue before the Hon'ble Apex Court was based on a



completely different set of facts. In the said case the deceased had borrowed a motor cycle from its owner and while on the way dashed into a bullock cart carrying iron-sheets thus died. Wife and minor son of the deceased in that case filed a claim petition under Section 163-A of the MVA. The Hon'ble Supreme Court in the backdrop of the said facts held that under Section 163-A of the MVA, it is the owner who is liable to pay compensation and as the deceased had borrowed motor cycle from owner, thus he stepped into the shoes of the owner thus, if compensation is allowed, the owner will be recipient of compensation and also liable to pay the same. However, in the present case, claim was filed under Section 166 of the MVA and the claimants never entered into the shoes of the owner, they infact filed claim for the death of their mother who died in the accident and who was a third party because she died as a pillion rider and that too before the death of the owner.

15. As regards the case of *Sunita (supra)* the facts of the said case were also completely different. In the said case, the accident occurred at 2:20 pm on 10.12.1991 and the insurance policy and cover note were obtained by the owner on the same day at 2:55 pm i.e. after occurrence of the accident. In this backdrop of the case, the Hon'ble Apex Court held that the insurer cannot be held liable on the basis of the said policy and the liability has to be of the owner of the vehicle. Thus, observation in para 3 of the said judgment has to be seen in this backdrop which is not at all applicable in the present case.

16. In the present case, the claim has been filed for death of the



mother of the claimants, who was also the wife of the owner of the insured vehicle. In the accident, both husband and wife died. As per evidence, wife died before husband. As per the settled law, except 'Insured' and 'Insurer' all are third party. The death of the owner occurred after the accident and after the death of the wife, thus on both counts the provisions of Section 155 of the Motor Vehicles Act will apply in full force and the cause of action survives against insurer.

17. Accordingly, it is hereby held that both of the appellants/claimants are entitled for compensation as quantified by the Claims Tribunal for the death of Ratanbai. Consequently, the appeal is **allowed**. The respondent/insurance company is directed to pay compensation as quantified by the Claims Tribunal with interest as awarded by the Tribunal in the impugned award. To that extent, the impugned award is modified.

With the aforesaid, the appeal stands allowed and disposed of.

(PAVAN KUMAR DWIVEDI)
JUDGE

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