



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 17th OF JULY, 2025

MISC. APPEAL No. 4127 of 2025

ICICI LOMBARD GENERAL INSURANCE CO. LTD.

Versus

KANCHAN JATAV AND OTHERS

Appearance :

Shri Aditya Narayan Sharma - Advocate for the appellant/Insurance Company.

Shri Sumit Tiwari – Advocate for the respondents.

ORDER

With the consent of parties, matter is heard finally.

This appeal under Section 173(1) of the Motor Vehicles Act, 1973 has been filed against award dated 11.02.2025 passed in MACC No.927/2020 by 23rd Additional Motor Accident Claims Tribunal, Jabalpur; whereby the claim filed by the respondents/claimants has been allowed.

2. Brief facts of the case are that the deceased Uday Jatav used to run a flower shop near Sadar Chopati. On 09.01.2020 at about 4:30 in the evening he was going to take water for his shop, non-applicant No.1 by driving his car bearing registration No.MP-20-CH-5678 rashly and negligently hit the deceased due to which he sustained injuries in his



legs, hands, head, chest, waist and other parts of the body. He was taken to hospital by 108 Ambulance where he was declared dead by the doctors.

3. Thereafter, brother and sister of the deceased filed a claim petition before the tribunal contending that the deceased used to run a flower shop and was earning Rs.20,000/- per month. He was the only earning member of the family and after his death, his brother and sister being dependent on the deceased are suffering financial crises.

4. Non-applicants No.1 and 2 being driver and owner respectively have not contested the case before the claims Tribunal and they were proceeded ex-parte by the Tribunal.

5. Appellant/Insurance Company denied the averments in its written statement and pleaded that at the time of incident driver of the offending vehicle was not having valid driving licence and the vehicle was being driven in contravention of the conditions of insurance policy, hence, prayed for dismissal of the claim petition against the insurance company. It is further submitted that the alleged vehicle has been implanted in the case.

6. Learned tribunal after framing the issues and appreciating the oral and documentary evidence adduced by the rival parties, awarded a sum of Rs.9,92,000/- to be paid by the non-applicants jointly and severally. Being aggrieved by the impugned award, appellant/Insurance Company has filed the present Appeal for exoneration from the liability saddled upon the company by the tribunal.

7. The appellant has challenged the impugned award mainly on the ground that the claimants are not the dependents of the deceased. It is



further argued that the compensation of award by the tribunal is on higher side in absence of any cogent evidence and material. It has been contended by learned counsel for the appellant that there is difference between legal representative and claimants to claim under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act of 1988') It is further contended that though in the provisions of Section 166, the word/phrase 'legal representative' has been used but that is only to file application under Section 166 of the Act of 1988 but not to get compensation, unless the applicants are dependent on the deceased. Further it is submitted that dependency is paramount consideration for granting compensation. It is also contended that in celebrated judgments of the Hon'ble Apex court in the cases of *Smt. Sarla Verma Vs. Delhi Transport Corporation (2009) 6 SCC 121* and *National Insurance Company Limited Vs. Pranay Sethi & others, (2017) 16 SCC 680* the factor of dependency is the sole basis for assessment and calculation of compensation.

8. Further, it has been contended by learned counsel for the appellant that respondents/claimants being brother and sister were not dependent as per their oral evidencesubmitted before the tribunal. They themselves have admitted that they used to give money to the deceased for his maintenance/livelihood. It is further contended that witness Kanchan (PW2) in his statement has stated that the deceased was not living with them but he used to live on footpath of Sadar Bazaar. He also stated that the deceased used to visit their home seldomly. It is further submitted by learned counsel for the appellant that the Hon'ble Apex Court in the case of *The New India Assurance Company Limited Vs. Anandpal [SLP*



(Civil) No.7805/2022] in paragraph 5 to 7 has categorically held that brothers and sisters would not be considered as dependent as they will either be independent and earning or married or dependent on the father. In similar facts and circumstances of the case, Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Birender and Others (2020) 11 SCC 356*** in paragraph 13 quoting the earlier judgment passed in the case of ***Manjuri Bera vs Oriental Insurance Company Ltd. (2007) 10 SCC 643*** has held that 'right to apply for compensation' and 'entitlement to compensation' are two different propositions. It has been further held that the compensation constitutes part of the estate of deceased, as a result, legal representative of the deceased would inherit the estate. Relevant paragraphs are reproduced hereinbelow :

“13. In para 15 of Manjuri Bera [Manjuri Bera v. Oriental Insurance Co. Ltd., (2007) 10 SCC 643 : (2008) 1 SCC (Cri) 585], 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 S.H. Kapadia, J., 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 Respondents 1 and 2 (claimants) even though they are major sons of the deceased and also earning.

14. 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 legal representative concerned was fully dependent 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 dependent 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.”

9. It is further contented by learned counsel for the appellant that the applicants in their examination have admitted that they were registered under Below Poverty Line scheme of the government and as such the notional income to the tune of Rs.7,000/- per month is not correctly assessed for the purpose of calculation of compensation. It is further submitted that the deceased has been admitted to be a disabled person at the time of death.

10. Per Contra, learned counsel appearing for the respondents has vehemently argued that the claim awarded by the learned Tribunal is just and proper. The tribunal has rightly applied the principle of law laid down by the Apex Court for the purpose of determination of dependency of the claimants over the deceased. It is further submitted that the deceased was not handicapped and he was earning member of the family and his brothers and sisters were dependent on him. Learned counsel has relied on various judgments to state that Hon'ble Apex Court in catena of judgments has held that the brothers and sisters irrespective of dependency are entitled for claiming compensation over the deceased. To bolster his submissions, learned counsel has relied on the judgments of



Hon'ble Apex Court in the cases of *Sadhana Tomar & ors. vs. Ashok Kushwaha & ors.* (Civil Appeal No.3763 of 2025 arising out of SLP (C) No.6986 of 2023) and *Deep Shikha vs. National Insurance Company Ltd. & ors.* [SLP (Civil) Nos.22265-22266 of 2018].

11. No other ground has been argued by learned counsel for the parties.

12. Heard learned counsel for the parties and perused the record.

13. The only question which has been raised in the present appeal is in regard to entitlement of the compensation of legal representatives who are not dependent on the deceased.

14. The Hon'ble Apex Court in the case of *Birender (surpa)* has held that the legal representative has a right to apply for compensation and it is the bounden duty of the tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only. The Hon'ble Apex Court in the case of *Manjuri Bera (supra)*, while advertng to the provision of Section 40 has observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. The compensation constitutes part of estate of the deceased. The legal representative of the deceased would inherit the estate. The Hon'ble Apex Court in the case of *Birender (supra)* holding that the claimants were working as agricultural labourer and found to be largely dependent on the earnings of their mother granted compensation.

15. The respondent has placed reliance on the case of *Sadhana Tomar (supra)* in which the father and the younger sister both found to be not financially independent legal representatives for the purpose of claiming



the compensation under the Act of 1988 were considered as dependents upon the income of the deceased. Similarly, in the case of ***Deep Shikha (supra)*** the mother was found to be dependent on the deceased and married daughter of the deceased was not found to be dependent.

16. The Hon'ble Apex Court considering the factual background of the cases has determined the dependency and accordingly, allowed/disallowed the applications. Therefore, factual background of the present case is required to be analyzed to consider the case of the appellant that whether the claimants fall within the definition of dependent for the purpose of compensation.

17. Learned counsel for the appellant has emphasized on some contradiction made in the statement of claimants in regard to their dependency. However, on reading it whole, this Court is of the considered opinion that the stray contradiction would not impede the entitlement of the claimants for the purpose of compensation under the Act of 1988. There is sufficient oral evidence in regard to their dependency.

18. The Hon'ble Apex Court in the case of ***N. Jayasree vs Cholamandalam Ms General Insurance (2022) 14 SCC 712*** has held as under :

"16. In our view, the term "legal representative" should be given a wider interpretation for the purpose of Chapter XII of the MV Act and it should not be confined only to mean the spouse, parents and children of the deceased. As noticed above, the MV Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the MV Act calls for a liberal and wider interpretation to serve the real purpose underlying the enactment and fulfil its legislative intent. We are also of the view that in order to maintain a claim petition, it is sufficient for the claimant to establish his



loss of dependency. Section 166 of the MV Act makes it clear that every legal representative who suffers on account of the death of a person in a motor vehicle accident should have a remedy for realisation of compensation.”

19. This Court is of the considered opinion that the Motor Vehicles Act calls for liberal and wider interpretation to serve the real purpose underlined the enactment and fulfill its legislative intent. Motor Vehicles Act is benevolent legislation enacted for the object of providing monetary relief to the victims of the family. Therefore, in the considered opinion of this Court, the tribunal has rightly awarded the compensation to the respondents/claimants being brother and sister of the deceased.

20. Question in regard to deceased having registered under the BPL scheme of the government would curtail the right of the claimants to claim the compensation ? In absence of any documentary proof to that effect that the deceased was getting some amount under the scheme, would not curtail right of claimants. If some statement has come in the evidence in regard to registration of deceased in the scheme of BPL would not deprive the claimants for the compensation under the Act of 1988.

21. The Hon’ble Apex Court in the case of ***Kirti vs Oriental Insurance Company Limited AIR 2021 SC 353*** has held that in absence of proof of income, Government guideline for the unskilled labour is treated to be sole criterion to assess the compensation and accordingly, the tribunal has assessed the income of the deceased to Rs.7,000/- per month. The said finding is also based on proper application of law, therefore, cannot be faulted with.



22. Therefore, in the considered opinion of this Court, the appeal filed by the insurance company sans merit and is hereby dismissed.

(DEEPAK KHOT)
JUDGE

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