**CNR No.** SKHC01-000205-2024

**THE HIGH COURT OF SIKKIM: GANGTOK**
(Civil Appellate Jurisdiction)

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**SINGLE BENCH : THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE**
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**MAC App No.26 of 2024**

The Branch Manager,
National Insurance Company Limited,
Near Police Headquarters,
NH 10, Gangtok, Sikkim. ... **Appellant**

***versus***

**1. Hasmukh Pannalal Punamiya,**
S/o Late Pannalal Punamiya,
Aged about 50 years

**2. Mahipal Pannalal Punamiya,**
S/o Late Pannalal Punamiya,
Aged about 49 years

**3. Chitralekha Jitendra Jain,**
D/o Late Pannalal Punamiya,
Aged about 43 years

All are permanent resident of
Thane West, Maharashtra, 400601.

**4. Kanahiya Singh,**
R/o Dikchu,
Mangan, Sikkim. ...**Respondents**

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<u>**Appearance:**</u>

Mr. Madan Kumar Sundas, Ms. Anita Limboo and Ms. Priyanka Subba, Advocates for the Appellant.

Mr. Rahul Rathi and Ms. Rupal Agarwal, Advocates for the Respondent Nos.1 to 3.

Mr. Nirmal Thapa, Advocate on behalf of Mr. Sushant Subba, Advocate for the Respondent No.4.

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Judgment Reserved on : 06.08.2026
Judgment Pronounced on : 10.08.2026
Judgment Uploaded on : 10.08.2026
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# JUDGMENT

***(A. Muhamed Mustaque, C.J.)***

**1.** This appeal was preferred by the insurer, National Insurance Company Limited. The Appellant is aggrieved by a Judgment of the Motor Accident Claims Tribunal, Gangtok, dated 12-08-2024, in a Claim Petition filed under Section 166 of the Motor Vehicles Act, 1988.

**2.** By the impugned judgment, the Learned Tribunal ordered the insurer to pay compensation of ₹ 85,59,880/- (Rupees eighty-five lakhs, fifty-nine thousand, eight hundred and eighty only) together with interest at the rate of 6% per annum from the date of filing of the claim petition to the Respondents-Claimants.

**3.** The Respondent-Claimants are siblings who claimed compensation as dependents of their sister-in-law.

**4.** The facts in brief, necessary for the disposal of this Appeal, are that the deceased sister-in-law, Toran Suresh Punamiya, was married to the younger brother of the Claimants, namely, Suresh Punamiya. Two children were born out of wedlock. Claimants' brother, Suresh Punamiya and his wife, Toran Suresh Punamiya, along with two minor children, who were the permanent residents of Maharashtra, had visited Sikkim as tourists. During their visit, they hired a vehicle which was insured by the Appellant-Insurer. It appears that while travelling to Lachung, North Sikkim, the vehicle met with an accident and fell approximately 700 feet off the cliff, resulting in their instantaneous death.

**5.** The Claimants thereafter instituted claim proceedings seeking compensation for the loss. The Claimants, by separate proceedings, were found entitled to the compensation – consequent upon the death of their brother and his two minor children. It was submitted at the Bar that the said claim for compensation was allowed but is presently challenged before the Hon'ble Supreme Court.

**6.** The Insurer has preferred the present Appeal essentially on two grounds. Firstly, that the Claimants are not dependent on the income of the deceased sister-in-law and therefore, the Tribunal erred in calculating compensation under the head of loss of dependency. That the Claimants are grown-up adults and the claims based on being dependent is a far-fetched fact, and all the Claimants are independent and possessed of their own sources of income. Secondly, that the business run by the deceased sister-in-law along with her husband was inherited by the Claimants after their demise and therefore there was no actual loss of dependency and that such claim has no foundation. Learned Counsel for the Appellant has placed reliance upon ***Sarla Verma and Others*** vs. ***Delhi Transport Corporation and Another***[1], ***National Insurance Co. Ltd.*** vs. ***Pranay Sethi and Others***[2], ***Amrit Bhanu Shali and Others*** vs. ***NIC Ltd. and Others***[3], ***Oriental Insurance Co. Ltd.*** vs. ***P. Sathyavathamma and Others***[4], ***Shashikala and Others*** vs. ***Gangalakshmamma and Another***[5], ***Rani Gupta and Others*** vs. ***United India Insurance Co. Ltd. and Others***[6], ***Sadhana Tomar and Others*** vs. ***Ashok Kushwaha and Others***[7], ***Manjuri Bera*** vs. ***Oriental Insurance Co. Ltd. and Another***[8] emphasising that compensation under the head of loss of dependency depends upon proof of actual financial dependency to be determined on the evidence, and not merely by the Claimant's relationship with the deceased. That the Claimants

[1] (2009) 6 SCC 121.
[2] (2017) 16 SCC 680.
[3] (2012) 11 SCC 738.
[4] 2009 SCC Online AP 758.
[5] (2015) 9 SCC 150.
[6] (2009) 13 SCC 498.
[7] (2025) SCC Online SC 554.
[8] (2007) 10 SCC 643.

have failed to establish that they were financially dependent upon the deceased.

**7.** *Per contra*, Learned Counsel for the Respondents-Claimants submits that the Claimants were entirely dependent upon the income generated from the business jointly run by the deceased and her husband, which constituted the sole source of livelihood for the members of the joint family and that they are not carrying on any business at present. It is further submitted that the Appellant neither adduced any evidence to establish that the business had been inherited or continued by the Claimants nor produced any evidence to contradict the specific claim of dependency made by the Claimants. Learned Counsel for the Respondents has relied upon ***Gujarat State Road Transport Corporation, Ahmedabad*** vs. ***Ramanbhai Prabhathbhai and Another***[9], ***Custodian of Branches of BANCO National Ultramarino*** vs. ***Nalini Bai Naique***[10], ***Montford Brothers of St. Gabriel and Another*** vs. ***United India Insurance and Another***[11], ***N. Jayasree and Ors***. vs. ***Cholamandalam MS General Insurance Company Limited***[12], ***Sadhana Tomar*** *(supra)*, ***Seema Rani and Others*** vs. ***The Oriental Insurance Company Limited and Other***[13] and ***The Branch Manager, National Insurance Co. Ltd.*** vs. ***Hasmukh Pannalal Punamiya and Others***[14] contending that the term "legal representative" under Section 166 of the Motor Vehicles Act is to be interpreted broadly and liberally, that a person who suffers on account of the death of the victim may maintain a claim even if not a legal heir in the strict sense.

**8.** The legal argument raised by the Learned Counsel for the Appellant is that, being siblings-in-law of the deceased, the Claimants

[9] (1987) 3 SCC 234.
[10] 1989 Supp(2) SCC 275.
[11] (2014) 3 SCC 394.
[12] (2022) 14 SCC 712.
[13] 2025 SCC OnLine SC 283.
[14] 2026:SHC:13.

cannot be regarded as dependents of their sister-in-law. It is argued that determination of compensation must strictly conform to the principles laid down by the Hon'ble Supreme Court under Section 166 of the Motor Vehicles Act, 1988. It is submitted by Learned Counsel for the Appellant that, at best, the Claimants may be entitled only to compensation under the conventional or non-pecuniary heads and not towards loss of dependency.

**9.** As far as the maintainability of the Claim Petition under Section 166 of the Motor Vehicles Act is concerned, it is well settled that legal representative of the deceased may maintain an application for compensation and that such person need not necessarily be a legal heir.

**10.** Learned Counsel for the Respondents submits that, in the present case, the Claimants would also succeed to the estate of the deceased under Section 15 of the Hindu Succession Act, 1956, there being no surviving members in the immediate family of the deceased. It is submitted that upon the mother's death, her children would ordinarily succeed to her estate, and upon the subsequent demise of the children, the Claimants, being their natural legal heirs, would succeed to their estate in accordance with Section 15 of the Hindu Succession Act, 1956.

**11.** This Court may not have much dispute regarding the maintainability of the Claim Petition. The claimants, no doubt, fall within the expression of "legal representatives". The question is whether the claimants can be treated as dependents of the deceased sister-in-law. There is no hard and fast rule for defining the expression "dependent". Dependency is essentially a question of fact and must be determined based on the evidence available in each case. The Hon'ble Supreme

Court in ***Montford Brothers of St. Gabriel*** *(supra)*, held that the religious congregation was the legal representative of the deceased, as it represented his estate. The Court recognized that the institution could suffer a loss from the death of its member. Likewise, in ***The Branch Manager, Reliance General Insurance Company Limited*** vs. ***Sa-Ngor Chotshog Centre and Another***[15]**,** a learned Single Judge of this Court recognised a Buddhist monastic institution as the legal representative of the deceased monk. In ***Fr. Jose Anthanatt*** vs. ***Cholamandalam Insurance Co. Ltd.***[16]**,** the Kerala High Court held that a Monastery was entitled to pursue the claim where the deceased priest had bequeathed all his assets to the Monastery by his Last Will. Similarly, in ***Shri S.B. Shivamurthy Shivachary Hiremutt*** v. ***Shabir Ahamed and others***[17], the Karnataka High Court held that a Mutt, qualified as the legal representative of the deceased and the claim for compensation, including under the head of loss of dependency. Therefore, the concept of dependency must be understood in the context of the relationship between the deceased, the claimant and the nature of financial support actually received.

**12.** In the present case, there are specific pleadings in the claim petition, duly supported by the evidence, that the Claimants were financially dependent upon the income earned by the deceased and her husband. They have produced Income Tax Returns of the deceased to establish that the business run by the deceased and her husband constituted the sole source of the income. This factual aspect was not effectively contested before the Tribunal. There was no effective cross-examination on the question of dependency nor did the Appellant adduce any evidence to establish that the Claimants possessed an independent source of income. In the absence of such rebuttal evidence,

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[15] 2019 SCC OnLine Sikk 31.
[16] 2026:KER:3645.
[17] 2026:KHC-K:2871-DB.

the Court will have to incline towards accepting the plea of dependency, particularly in view of the evidence that the business was being conducted by the deceased and her husband for the benefit of the joint family. Equally, no evidence was adduced to show that the business had continued to be operated by the Claimants after the demise of the deceased. In such circumstances, the computation of loss of dependency was made in accordance with the principles laid down by the Hon'ble Supreme Court, and no substantial challenge has been raised before this Court regarding the calculation of the compensation amount.

**13.** This present case, however, could have had a different dimension in the matter of claim. Assuming that the Appellant's contention regarding dependency were to be accepted, an interesting question would still arise with respect to the devolution of the right to claim compensation. In this context, it would be apposite to refer to Section 21 of the Hindu Succession Act, 1956, which reads as follows:

> **"21. Presumption in cases of simultaneous deaths.—** Where two persons have died in circumstances rendering it uncertain whether either of them, and if so which, survived the other, then for all purposes affecting succession to property, it shall be presumed, until the contrary is proved, that the younger survived the elder."

**14.** Applying the statutory presumption contained in Section 21 of the Hindu Succession Act, if the deceased mother is presumed to have predeceased her children, the children would have become entitled to succeed to her estate, including any claim arising out of her death. Since the children also lost their lives in the same accident, and are presumed to have survived the deceased mother, they would, in turn, have been entitled to claim compensation arising from her death. Upon their subsequent demise, the Claimants, being their natural legal heirs under the applicable provisions of the Hindu Succession Act, would have succeeded to their estate. Viewed from that perspective, the Claimants could arguably have become entitled to an even higher amount of compensation than that awarded in the present proceedings.

**15.** Even when the matter is examined from the aforesaid perspective, I find no reason to interfere with the well-considered Judgment passed by the Learned Tribunal.

**16.** Consequently, the Appeal fails and is accordingly dismissed.

**17.** There shall be no order as to costs.

**18.** Records of the Learned Tribunal be remitted forthwith.

**Chief Justice**

*Approved for reporting: Yes*

*ds/ami*