

**IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**

**FAO No.81 of 2020**

**Date of decision: 28.11.2025**

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Shriram General Insurance Company Limited

...Appellant

Versus

Madhu Devi and others

...Respondents

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*Coram*

**Hon'ble Mr. Justice Sushil Kukreja, Judge**

<sup>1</sup> *Whether approved for reporting?*

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For the appellant: Mr. Virender Sharma, Advocate.

For the respondents: Mr. Surender K. Sharma, Advocate, for respondents No.1 & 2.

Ms. Anita Parmar, Advocate, for respondent No.3.

Mr. Virender Thakur, Advocate, for respondent No.4.

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**Sushil Kukreja, Judge (oral)**

The instant appeal is maintained by the appellant/ Shriram General Insurance Company Ltd. (hereinafter referred to as “the appellant”), under Section 173 of the Motor Vehicles Act (for short “the MV Act”), against the award dated 01.11.2019, passed by the learned Motor Accidents Claims Tribunal, Chamba, District Chamba, H.P., in CIS Regd. No.154 of 2018, with a prayer to set aside/modify the impugned award.

2. Succinctly, the facts giving rise to the present appeal are

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<sup>1</sup> *Whether reporters of Local Papers may be allowed to see the judgment?*

that the petitioners (respondents No.1 & 2 herein) filed a claim petition under Section 166 of the MV Act, whereby they sought compensation to the tune of Rs.25,00,000/- on account of death of Shri Sachin, who was husband of petitioner/respondent No.1 and father of petitioner/respondent No.2. It was averred by the petitioners that on 01.09.2017 Sachin was travelling on the motorcycle bearing registration No.HP-46-1985 as a pillion rider, which was being driven by Akshay Kumar (respondent No.3 herein) in a rash and negligent manner and when the aforesaid motorcycle reached at Zero Point Kunr at about 10:40 PM, the driver lost control over it due to high speed and it went off the road and fell into gorge (*dhank*), causing grievous injuries, which resulted into his death.

3. As per the petitioners, at the time of his death, the deceased was 27 years old and he was working as Shift Operator (Electrician) in 2 x 2.5 MW, Chirchind Hydro Power Plant and was drawing salary of Rs.10,915/- per month. He was the only sole bread winner for the family. The offending vehicle was owned by Akshay Kumar (respondent No.3 herein) and it was insured with Shriram General Insurance Company (appellant herein). Hence, the petitioners sought compensation to the tune of Rs.25,00,000/-.

4. In the reply filed by respondent No.1/Insurance Company, preliminary objections were taken regarding maintainability, the vehicle was being driven without requisite documents and the driver of the

offending vehicle was not having a valid and effective driving licence at the time of accident and the vehicle was being driver in breach of the terms and conditions of the insurance policy. On merits, the averments made in the petition were denied and prayed that the insurance company was not liable to pay any compensation to the petitioners.

5. The owner-cum-driver of the offending vehicle (respondent No.3 herein) in his reply to the claim petition raised preliminary objection regarding maintainability. On merits, it has been averred that the vehicle was comprehensively insured with respondent No.1, who was liable to indemnify him, being the insurer of the vehicle.

6. On the basis of the pleadings of the parties, the learned Tribunal below framed the following issues on 12.03.2019:-

- “1. Whether deceased died in vehicular accident involving vehicle No.HP-46-1985 (Motorcycle) on 01.09.2017 at place Zero Point Konr within the jurisdiction of Police Station Bharmour on account of rash and negligent driving of respondent No.2, as alleged? OPP***
- 2. Whether the petitioners are entitled to compensation, if so, as to what amount and from whom? OPP***
- 3. Whether the petition is not maintainable, as alleged? OPR-1***
- 4. Whether the driver was not holding a valid and effective driving licence to drive the offending vehicle, as alleged? OPR-1***
- 5. Whether the offending vehicle was being driven in violation of terms and conditions of the Insurance Policy, as alleged? OPR-1***
- 6. Whether the offending vehicle was being driven without pollution certificate, if so, the effect thereof? OPR-1***
- 7. Relief.”***

After parties led their evidence, the claim petition was allowed and the petitioners were granted compensation to the tune of Rs.15,54,500/- alongwith interest, which was to be paid by the Insurance Company (appellant herein).

7. Feeling aggrieved/dissatisfied, the appellant/insurance company preferred the instant appeal against award dated 01.11.2019 passed by the learned Tribunal below, with a prayer to set-aside/modify the impugned award.

8. I have heard the learned counsel for the appellant as well as learned counsel for respondents No.1 and 2, learned counsel for respondent No.3 and learned counsel for respondent No.4 and also carefully examined the entire record.

9. Learned counsel for the appellant/Insurance Company has contended that the claim petition was filed before the learned Tribunal below by the wife as well as minor daughter of the deceased, however, mother of the deceased was not impleaded as party before the learned Tribunal below. He further contended that since the mother also comes within the category of class-1 legal heir until and unless she herself waived of her legal right, it cannot be curtailed. He submitted that being mother, Smt. Anju Bala was the necessary and property party to be impleaded in the claim petition, but the petitioners intentionally did not array her in the petition just to debar her from her genuine and legal claim.

10. After going through the entire material available on record, it has become clear that the claim petition was filed only by the wife as well as daughter of the deceased, but the mother of the deceased was not impleaded as party. However, during pendency of the present appeal, on an application (CMP No.27628 of 2025) filed under Order 1, Rule 10, CPC read with Section 151 of CPC by the mother of the deceased, she was impleaded as respondent No.4 in the present appeal.

11. As per Section 166 of the MV Act, an application for compensation arising out of an accident shall be filed by all or any of the legal representatives of the deceased where the death has resulted from the accident and 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. At this stage, it would be relevant to reproduce Section 166 of MV Act, which reads as under:-

***“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.*

*[Provided further that where a person accepts compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.]*

*[(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:]*

*[\*\*\*]*

*[(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.]*

*[(4) The Claims Tribunal shall treat any report of accidents forwarded to it under [section 159] as an application for compensation under this Act.]*

*[(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.]”*

12. Thus, from a plain reading of Section 166(1)(c) it is clear that where the death has resulted from the accident, the application for compensation can be filed by all or any of the legal representatives of

the deceased and as per the proviso to the said sub-clause, if all the legal representatives of the deceased have not joined in any such application for compensation, 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.

13. In the case on hand, the mother of the deceased namely Anju Bala, neither filed any application seeking her impleadment nor she was impleaded as respondent when the claim petition was filed by the wife and daughter of the deceased before the learned Tribunal below and compensation to the tune of Rs.15,54,500/-was awarded in their favour, with a direction that the award amount shall be apportioned between them in the ratio of 60:40. The mother of the deceased namely Anju Bala, has now been impleaded as legal representative of the deceased before this court and being class-1 heir of the deceased, as per Section 166 of MV Act, she is also entitled to the compensation on account of death of her son. Accordingly, this court does not find any illegality in the assessment of compensation quantified by the Tribunal which of course was not questioned on any tangible ground but on the aspect of right to receive compensation and proportion thereof, each of the legal representatives of a deceased at the time of accident is held entitled to receive the statutory benefit.

14. Therefore, without disturbing the findings of the Id. Tribunal below on merits of the case and also without interfering in its findings with respect to the amount of compensation, it is ordered that the amount of compensation of Rs.15,54,500/- as awarded by the learned Tribunal below, shall now be apportioned amongst respondents No.1, 2 and 4 as follows:-

**Respondent No.1 (wife) = 45%**

**Respondent No.2(daughter) = 25%**

**Respondent No.4 (mother) = 30%**

15. The remaining terms of the impugned award, including the interest component shall remain the same.

Accordingly, the instant appeal is disposed of in the above terms, so also the pending application(s), if any.

**( Sushil Kukreja )  
Judge**

**November 28, 2025**  
(V. Himalvi)