**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****222****FAO-6904-2019 (O&M)****Date of decision: 12.09.2025****Rajbir and another****...Appellant(s)****Vs.****Monu and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. J.S.Saneta, Advocate with  
Mr. Nitish Kumar, Advocate for the appellants.

**\*\*\*****NIDHI GUPTA, J.**

The present appeal has been filed by the claimants against the dismissal of their claim petition by the learned MACT, Jhajjar (hereinafter referred to as 'the Tribunal'), vide Award dated 14.12.2016 passed in MAC Petition No. 03 dated 19.01.2016 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 2 claimants are the parents of the deceased Suresh.

2. The case as pleaded by the appellants in the claim petition before the learned Tribunal as recorded in para 2 of the impugned Award reads as follows:-

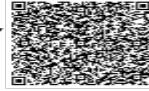
*"The matrix of the facts as material which needs necessary mention for the purpose of deciding the real controversy involved in the claim petition is that on 29.08.2015 Suresh along with his cousin Virender S/o Ram Kumar (complainant) had gone to Najafgarh, Delhi for their personal work in a car bearing registration No. DL-3CAW-6099 (hereinafter referred to as "offending vehicle"), which*



*was being driven by respondent No.1. After the completion of their work, they were returning to their native village Lowa Kalan, the respondent No.1 was driving the vehicle in rash and negligent manner and at a very high speed. Suresh and Virender asked the driver Monu many times not to drive in such a rash and negligent manner and to drive the vehicle safe at a low speed, but the respondent no.1 did not listen to them and the driver got the vehicle struck against a tree and due to the impact, Suresh sustained multiple grievous injury. Suresh was brought to Civil Hospital. Bahadurgarh, where he was declared brought dead. It is submitted that the accident was caused due to rash and negligent driving of the respondent no.1, who was driving the vehicle under the control of respondent No.2. The respondent no.1 is entirely responsible for this accident and hence liable to pay compensation. Respondent no.2 is the registered owner of the offending vehicle and the said vehicle was insured with respondent No.3. So, the respondent no.1, 2 & 3 are jointly and severally are liable to pay compensation to the claimants."*

3. The learned Tribunal upon appraisal of the pleadings as well as oral and documentary evidence led before it, had concluded that the claim petition was not maintainable and had accordingly dismissed the same.

4. Ld. counsel for the appellants submits that while deciding issue no. 1, the Ld. MACT has considered that claim petition was preferred by LRs of the deceased against the owner and the Insurer of the offending Car. As the deceased had brought the Car from the owner, he stepped into the shoes of the owner and therefore, he cannot be the recipient of the



compensation. The Insurance Policy is a Contract of Insurance only, provides for indemnity to the Insurer Company as the liability of the owner towards the third party and not the User/ Rider who steps into the shoes of the insured himself. From the perusal it is clear that the premium was paid towards personal accident. Therefore, the Insurer Company cannot be burdened with the liability of the compensation to the LRs of the deceased who borrowed the vehicle from the registered owner. So, issue no. 1 was decided against the appellants/ claimants by the Ld. MACT Jhajjar. Ld. Counsel contends that the above said reasoning of the learned Tribunal is incorrect as admittedly, the offending vehicle was being driven by respondent no.1 and was owned by respondent no.2. Thus, compensation could not have been denied to the appellants.

5. It is accordingly prayed that the present appeal be allowed; and the impugned Award be set aside.

6. No other argument is raised on behalf of the appellants. I have heard learned counsel and perused the case file in great detail.

7. Needless to say, there is no merit in the submissions made on behalf of the appellants. As per the own pleaded case of the appellants, the deceased was a gratuitous borrower of the offending vehicle. It is established position in law as per landmark judgment of the Hon'ble Supreme Court **"Ningamma & Another Vs. United India Insurance Company Limited"** 2009(3) RCR (Civil) 435, that legal heirs of borrower of vehicle would not be entitled to compensation under the Act as, a claimant cannot be both owner of offending vehicle as well as claimant. In the



present case, as per the conditions of the Policy in question, the claimants cannot get compensation as Suresh had stepped into the shoes of Parveen/owner of the Car because he had borrowed the Car from Parveen. Reference may also be made to judgments of this Court in “**National Insurance Company Limited Vs. Sukhdev Singh & Another**” FAO-2570-2009 decided on 26.07.2010; “**Oriental Insurance Co. Ltd. Vs. Darshani Devi & Others**” FAO-7007-2011 decided on 18.03.2014; “**M/s Reliance General Insurance Company Vs. Ranjit & Another**” FAO-6704-2011 decided on 24.03.2015; “**Cholamandlam MS General Insurance Company Limited Vs. Smt. Rajesh and Others**” FAO-3764-2010 decided on 14.05.2014; and “**United India Insurance Co. Ltd. Vs. Angrej Singh & Another**” FAO-1200-2008 decided on 20.05.2010, wherein the above said judgment of the Hon’ble Supreme Court in **Ningamma (supra)** has been followed.

8. In view of the above, present appeal is **dismissed**.
9. Pending application(s) if any also stand(s) disposed of.

**12.09.2025**

Divyanshi

**(NIDHI GUPTA)**

**JUDGE**

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