

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****279****FAO-1331-2017 (O&M)****Date of Decision : 10.02.2025**

SBI General Insurance Co. Ltd.

....Appellant

VERSUS

Pardeep Kadyan and Others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mukesh Mittal, Advocate for
Mr. Suman Jain, Advocate for the appellant.

None for the respondents.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by the Insurance Company challenging the award dated 18.11.2016 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as the 'Tribunal) on the ground that the claimants, who are major sons of the deceased, Dharam Kaur, would not be entitled to any compensation.

2. Learned counsel for the appellant would contend that deceased – Dharam Kaur – who died in a roadside accident on 28.02.2014 was survived by her two sons who, being majors, would not be entitled to compensation.

3. None has put in appearance on behalf of the claimants as well as the driver and owner of the offending vehicle.

4. Heard.

5. The deceased in the present case was an income tax payee and was receiving Rs.40,000/- per month. Her husband was a permanent employee of BBMB Sewah, District Panipat and after the death of her husband she was getting the benefits of his salary from BBMB Sewah, District Panipat. It was further averred in the claim petition that both the claimants were unmarried and students and after the death of their mother, they had no source of income. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Birender & Ors. [2020(1) RCR (Civil) 694]** has held as under :

“15. 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 concerned legal representative was fully dependant 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 dependant 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.”

6. The specific stand of the claimants was that they were both unmarried and dependent on their mother and that they had no other source of income. No evidence was led to the contrary by the Insurance Company or the driver and owner of the offending vehicle. In the absence of any evidence, there is no reason to disbelieve the claimants.

7. In view of the above and in view of the law laid down by the Hon'ble Supreme Court in case of **National Insurance Company Ltd. vs. Birender & Ors.** (*supra*), I do not find any merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.02.2025

jk

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO