

(1989) 07 P&H CK 0041
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 351 of 1989

New India Assurance Co. Ltd., Chandigarh	APPELLANT
Vs	
Kashmiri Lal and others	RESPONDENT

Date of Decision : 19-07-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 2(11)
Motor Vehicles Act, 1939 — Section 110B

Citation : (1990) ACJ 78 : AIR 1990 P&H 98

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : L.M. Suri and Ramdev Arora, for the Appellant; R.K. Malik, for the Respondent

Judgement

1. One Luxmi was injured on June I, 1986. She filed her claim application before the Motor Accidents Claims Tribunal on September 11, 1986. During the pendency of the said proceedings, she died on December 11, 1986. On her death, her husband Tej Pal, moved an application for bringing him on record as her legal representative, which was allowed. Unfortunately, the husband Tej Pal also died on March 21, 1988. On his death, the mother of Laxmi, Omwati moved the application for bringing her on the record as the legal representative of her daughter Luxmi. That application was resisted by the insurance company. The Tribunal allowed the said application on the ground that she had spent a sum of Rs. 10,000/- on the treatment of her daughter and, therefore, she will be deemed to be a legal representative as defined under subsection (11) of Section 2 of the Code of Civil Procedure. According to the learned Tribunal Omwati will be entitled to the compensation as any person who meddles with the case of the deceased is a legal representative.

2. The learned counsel for the petitioner insurance company submitted that the mother of the deceased Luxmi could not be held to be her legal representative in any manner. On the death of Luxmi, her husband Tej Pal, was impleaded as her

legal representative though according to the learned counsel he could (not?) also be impleaded as such as it was an injury case and the claim in such cases comes to an end along with the death of the injured person. At the most, the heirs of Tej Pal could be impleaded, but under no circumstances, Omwati, the mother of the deceased Luxmi, could make any application for being impleaded as a legal representative of the deceased. According to the learned counsel, she was neither her heir under the Hindu Succession Act, nor otherwise could be. said to be a legal representative as such particularly on the death of Tej Pal. In support of the contention, the learned counsel relied upon Calcutta Insurance Ltd. v. Bhupinder Singh 1970 A CJ 344 (Punj) and C.P. Kandaswamy and Others Vs. Mariappa Stores and Others,).

3. After hearing the learned counsel, I find force in the contention raised on behalf of the petitioner. After the death of Tej Pal, the husband of the deceased Luxmi injured, Omwati, the mother of the deceased Luxmi, could not be said to be her heir or legal representative as such to be brought on the record. The approach of the learned Tribunal in this behalf was wholly wrong and illegal.

4. Consequently, the revision petition succeeds and is allowed. The impugned order is set aside. Since further proceedings were stayed at the time of the motion hearing, the parties are directed to appear before the Tribunal on August 4, 1989.

5. Petition allowed.