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CONSUMER

Death of the Doctor, Death of the Claim? Supreme Court Answers a Long-Standing Question

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Introduction

The Supreme Court's decision in *Kumud Lall v. Suresh Chandra Roy*[1] (2026) revisits a foundational yet unsettled question in Indian tort and consumer jurisprudence whether a claim for medical negligence survives against the legal heirs of a deceased doctor. Situated at the intersection of procedural law under the Consumer Protection regime and substantive principles under the Indian Succession Act, 1925, the ruling undertakes a nuanced examination of the doctrine *actio personalis moritur cum persona* (i.e. a personal action dies with the person) and its continued relevance in modern legal framework. The judgment provides critical clarity on the survivability of causes of action, particularly in cases involving personal injury and estate-based claims.

Factual Background

The dispute originates from a medical negligence claim dating back to February 1990, when the complainant's wife approached Dr. P.B. Lall for treatment of severe pain in her right eye. She was advised immediate surgery, which was performed shortly thereafter. However, the condition did not improve, and the patient continued to experience complications, necessitating consultations with multiple medical practitioners across different cities. It was alleged that due to improper treatment and surgical intervention, she suffered irreversible loss of vision in her right eye and risk to the left eye.

In August 1997, the complainant instituted proceedings under the Consumer Protection Act, 1986 seeking compensation for medical expenses, loss of vision, and mental agony. The District Forum partly allowed the complaint, holding the doctor liable for deficiency in service and awarding compensation. On appeal, however, the State Commission set aside the findings of negligence, primarily on the ground that no expert evidence had been produced to substantiate the allegation and that the condition was attributable to glaucoma.

Aggrieved by the reversal, the complainant preferred a revision petition before the National Consumer Disputes Redressal Commission. During the pendency of these proceedings, Dr. Lall passed away in 2009, following which an application was filed seeking substitution of his legal heirs. The National Commission allowed the substitution, giving rise to the present challenge before the Supreme Court on the question of survivability of the claim.

Core Legal Issue

The central question before the Court was:

Whether a claim for medical negligence survives against the legal heirs of a deceased doctor, particularly when no decree existed against him at the time of death?

This raised two interconnected legal inquiries:

- Whether the "right to sue" survives after the death of the alleged tortfeasor.
- Whether legal heirs can be held liable to the extent of the estate inherited.

Arguments Advanced

Appellants (Legal Heirs of the Deceased Doctor)

The appellants assailed the continuation of proceedings on the ground that the claim, being one of medical negligence resulting in personal injury, does not survive the death of the alleged wrongdoer. Placing reliance on Section 306 of the Indian Succession Act, 1925, it was contended that causes of action relating to personal injuries not resulting in death are extinguished upon the death of the person against whom such claim is made. Accordingly, no liability could be fastened on the legal representatives.

It was further argued that, at the time of Dr. Lall's death, there existed no subsisting decree or crystallised liability, as the State Commission had already set aside the finding of negligence. In such circumstances, the proceedings could not be continued merely to determine a personal claim, particularly when the alleged liability had not attained finality.

The appellants also emphasised that the alleged act of negligence was purely personal in nature, rendered in the course of professional services by the doctor, and did not result in any enrichment or accretion to his estate. Consequently, even on first principles, the estate of the deceased could not be made answerable for such claims. It was thus submitted that the proceedings stood abated and the substitution of legal heirs was legally untenable.

Respondents (Complainant's Side)

The respondents, on the other hand, contended that the right to sue survives, and therefore, the proceedings were rightly continued by substituting the legal heirs. Reliance was placed on Section 13(7) of the Consumer Protection Act, 1986, read with Order XXII of the Code of Civil Procedure, which expressly contemplates continuation of proceedings upon death of a party, subject to survivability of the cause of action.

It was submitted that the legal representatives step into the shoes of the deceased and represent his estate. To the extent that any liability is ultimately determined, the same can be satisfied out of the estate inherited, thereby ensuring that the claimant is not left remediless.

The respondents further argued that the claim, at its present stage, is essentially pecuniary in nature, comprising compensation for expenses, loss and damages, which is capable of enforcement against the estate. Denying substitution at this stage would effectively defeat the object of the Consumer Protection Act, which is intended to provide effective and meaningful redressal to consumers.

Submissions of Intervenor and Amicus Curiae

The intervenor and amicus curiae highlighted the need to reconcile procedural provisions with substantive law governing survivability. It was submitted that while Order XXII CPC enables substitution, the determinative test remains whether the cause of action survives in law, which must be assessed with reference to Section 306 of the Indian Succession Act.

At the same time, it was urged that a strict and mechanical application of the maxim *actio personalis moritur cum persona* is no longer aligned with modern jurisprudence, particularly in the context of beneficial legislations such as the Consumer Protection Act. A distinction was proposed between pure personal injury claims and claims involving pecuniary loss to estate, with the latter being capable of surviving against the estate of the deceased.

It was thus suggested that, at the very least, claims representing economic loss or diminution of estate should be permitted to continue, even if purely personal claims are held to abate, so as to avoid anomalous and inequitable outcomes.

Legal Framework Examined

The Court examined the interplay between procedural and substantive law governing the survival of legal claims. At the procedural level, reliance was placed on Section 13(7) of the Consumer Protection Act, 1986, which incorporates the provisions of Order XXII of the Code of Civil Procedure. These provisions permit substitution of legal representatives upon the death of a party; however, such substitution is contingent upon the survival of the right to sue, making it clear that procedural continuity cannot operate independent of substantive law.

On the substantive side, the Court considered Section 306 of the Indian Succession Act, 1925, which embodies the principle that all rights of action survive except those relating to defamation, assault, and other personal injuries not resulting in death. This provision reflects the common law doctrine that purely personal claims abate upon death, unless they impact the estate or result in pecuniary loss capable of transmission.

The Court also took note of the broader scheme of consumer protection legislation, recognising it as a beneficial framework intended to ensure effective redressal. However, it clarified that such statutory intent does not automatically override established principles of succession law, and the question of survivability must ultimately be determined based on the nature of the claim and its legal character.

Key Findings

The Supreme Court clarified that continuation of proceedings after the death of a party depends on whether the "right to sue" survives, and procedural provisions permitting substitution cannot extend substantive rights.

The Court reaffirmed that purely personal injury claims ordinarily abate under Section 306 of the Indian Succession Act, 1925. However, a distinction must be drawn where the claim involves pecuniary loss or impact on the estate, in which case the cause of action may survive and be enforced against the estate of the deceased, limited to the extent inherited.

It was further observed that, in the absence of a crystallised liability or decree, courts must carefully assess survivability before permitting continuation. While recognising the beneficial nature of consumer law, the Court held that it does not override settled principles of succession, and the outcome must ultimately turn on the nature of the claim.

Order Passed

The Supreme Court, upon examining the issue of survivability of the claim, set aside the orders of the National Consumer Disputes Redressal Commission insofar as they permitted substitution of the legal heirs of the deceased doctor and continuation of proceedings without determining whether the right to sue survived.

The Court held that the continuation of proceedings against the legal representatives cannot be sustained as a matter of course, and must depend on whether the cause of action particularly in cases of medical negligence survives in law. In the facts of the case, the claim being in the nature of personal injury without a crystallised liability, the proceedings were not maintainable against the legal heirs.

Conclusion

The Supreme Court's ruling brings doctrinal clarity to a nuanced area of law by reaffirming that the survival of a claim is determined by its legal character, not merely by procedural continuity. In doing so, the Court harmonises consumer protection jurisprudence with established principles under succession law, ensuring that liability does not extend beyond death in cases involving purely personal causes of action.

At the same time, the judgment preserves the enforceability of claims involving pecuniary loss or impact on the estate, thereby striking a balanced approach between protecting consumer rights and limiting unwarranted extension of liability to legal heirs.

The decision is an important precedent for future medical negligence and tort claims, reinforcing that only legally transmissible rights survive, and highlighting the need for timely adjudication where personal claims are involved.

The ruling highlights a critical takeaway:

Not all wrongs survive death but those impacting the estate may still find legal redress.

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1. 2026 INSC 443 (Arising out of Special Leave Petition (Civil) Nos. 33646 – 33647 of 2018) ??

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