



2025:UHC:9610

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 366 of 2014

30 October, 2025

United India Insurance Co.

--Appellant

Versus

Smt. Bhawna Devi & others

--Respondents

Presence:-

Mr. Prabhat Pande, learned counsel for the appellant.

Mr. Zafar Ulla Siddiqui, learned counsel for the respondents/
claimants.

Hon'ble Pankaj Purohit, J.

This appeal has been preferred by the appellant Insurance Company under section 173 of Motor Vehicle Act, 1988 against the judgment and order dated 13.06.2014, passed by the learned Motor Accident Claims Tribunal/1st Additional District Judge, Haldwani in MACP No. 36 of 2011 (*Smt. Bhawani Devi & others vs. Ganesh Dutt Joshi & another*), whereby the learned Tribunal allowed the claim petition and awarded compensation of Rs. 6,38,000/- in favour of the claimant- *Smt. Bhawani Devi*, along with interest at 7% per annum from the date of filing of the petition till actual realization, holding the appellant-United India Insurance Company Ltd. liable to satisfy the award.

2. The brief facts of the case are that on 3 November 2010, at about 9:00 a.m., the deceased Krishna Kumar alias Kishan Pandey, aged around 26 years, and his younger brother Sanjay Pandey were standing by the side of the road at Kamaluwaganja,



within the jurisdiction of Police Station Haldwani, waiting for a bus to return to their village after selling milk in the town. At that time, a motorcycle bearing registration No. UK-04 J-1463, being driven rashly, negligently, and on the wrong side of the unpaved road, came at high speed and hit both of them with great force. Both brothers sustained serious injuries and were immediately taken to Sai Hospital, Haldwani, where they were admitted for emergency treatment. While Sanjay Pandey survived after prolonged medical attention, Krishna Kumar succumbed to his injuries on 4 November 2010. It was alleged that the deceased earned approximately Rs.6,000 per month from his small dairy business. He was the sole breadwinner of the family, comprising his widow Smt. Bhavana Devi and two minor children. On account of his untimely death, the family suffered acute financial hardship and emotional distress. Accordingly, the claimants filed a petition under Sections 166 and 140 of the Motor Vehicles Act, 1988, claiming compensation of Rs. 21,10,000/- from the owner and insurer of the offending vehicle.

3. The learned counsel for the claimants submitted that the entire accident occurred solely due to the rash and negligent driving of the motorcycle No. UK-04 J-1463, owned by Ganesh Dutt Joshi and it was insured with United India Insurance Company Ltd. The vehicle, they claimed, had come from the wrong direction, and hit both of them with great force. They further stated that the accident was promptly reported, but due to the shock of the fatality and the family's preoccupation with medical treatment and funeral arrangements, the formal complaint was lodged later by their relative Prakash Chandra Pandey with the office of the Inspector General



of Police, Kumaon Range. It was also submitted that the deceased, being self-employed in milk distribution, used to earn a steady income of Rs.6,000 per month and contributed the major portion to the maintenance of his wife, children, and aged father. The death had left the family destitute, with no other source of livelihood.

4. The learned counsel for the owner of the motorcycle filed a written statement denying the allegations of rashness or negligence. He asserted that his vehicle was being driven slowly and carefully on its correct side of the road, when the deceased suddenly and negligently appeared in front of it, resulting in the unfortunate collision. The owner contended that the deceased was himself responsible for the accident.

5. He also emphasised that on the date of the incident, he held a valid and effective driving licence (valid from 15.07.2009 to 09.03.2026), that his motorcycle was duly registered and insured, and that there had been no breach of policy terms or statutory provisions.

6. The appellant- United India Insurance Company Ltd., in its written statement, denied all material allegations. It contended that there was inordinate delay in lodging the FIR and that the claim was a fabricated story, concocted much later with the connivance of the vehicle owner. The insurer argued that if such a serious accident had indeed occurred, it was inexplicable why no immediate police report was made, and why the vehicle allegedly involved was not seized or verified by police authorities within a reasonable time period.

7. The insurer further pleaded that since the



vehicle owner did not properly contest the matter, it had sought and obtained permission under Section 170 of the Motor Vehicles Act to contest the petition on all grounds available to the insured, including negligence and quantum.

8. On the basis of the pleadings of the parties concerned the learned Tribunal framed the following issues for adjudication:

(i) Whether on 03.11.2010 at around 9:00 A.M., when Kishan Kumar alias Kishan Pandey along with his brother Sanjay Kumar was waiting for a bus on the roadside at Kamaluwaganja, all of a sudden a motorcycle, bearing registration no. UK 04 J 1463, being driven rashly and negligently from the wrong direction, hit them, causing serious injuries and as a result led to the death of Kishan Kumar alias Kishan Pandey in Sai Hospital, Haldwani?

(ii) Whether the accident occurred due to the negligence of the petitioner himself, if so, its effect?

(iii) Whether on the date and time of such accident, the driver of the offending motorcycle did not hold a valid and effective driving licence, if so, its effect?

(iv) Whether the vehicle owner has violated any condition of the insurance policy, if so, its effect?

(v) To what amount of compensation, if any, are the claimants entitled, and from whom?

9. On behalf of the claimants, PW1 Smt. Bhavana Devi (widow), PW2 Sanjay Pandey (injured eyewitness), and PW3 Dr. Chandrashekhar Bhatt (Sai Hospital) were examined.

10. A large number of documents were exhibited, including:-



(i) FIR and complaint to the I.G. Police (Papers 4G/ 1–9G/2),

(ii) Medical reports, post-mortem report, and hospital bills (Papers 10G/1–10G/15),

(iii) Death certificate and receipts for treatment and CT scan (Papers 26C/1–26C/3).

11. On behalf of the respondents, DW1 Sub-Inspector Sushil Chandra Joshi (who conducted *panchayatnama* proceedings) and DW2 Chandrashekhar Pandey, the insurance investigator, were examined. The insurer also placed on record its internal investigation report (Paper No. 58C/2) and verification report (Papers 62C/1–62C/2).

12. On issues no. 1 & 2 the Tribunal carefully analyzed the oral and documentary evidence. PW2 Sanjay Pandey, being an injured eyewitness, gave a clear and consistent account of the accident, stating that the motorcycle came from the wrong side at high speed and struck both brothers, causing fatal injuries to Krishna Kumar. His presence at the scene was natural and corroborated by his own injury records and the hospital admission details.

13. On the contrary, the insurer's witness, DW2 Chandrashekhar Pandey, admitted in cross-examination that his investigation report was not based on any eyewitness account and that he did not record statements of any local residents. Furthermore, the Tribunal observed that the insurer had **settled an own-damage claim (OD claim) for the same vehicle after the accident** — which contradicted its stand that the motorcycle was not involved. DW1, the Sub-Inspector,



only confirmed that *panchayatnama* proceedings were held, and his testimony did not rebut the claimant's evidence. The Tribunal found the insurer's allegation of collusion baseless and unsupported by any independent proof. Hence, it concluded that the accident occurred solely due to the rash and negligent driving of motorcycle No. UK 04 J-1463 by its driver, and not due to any contributory negligence on the part of the deceased.

14. On issues no. 3 & 4 the Tribunal noted that the burden to prove absence of a valid driving licence or breach of policy terms lay squarely on the Insurance Company. No evidence was adduced in this regard. Documentary records showed that the driver, Ganesh Dutt Joshi, possessed a valid licence effective till 09.03.2026, and that the vehicle was duly insured under a policy valid from 23.06.2010 to 22.06.2011. Accordingly, these issues were decided against the insurer, holding that there was no breach of policy conditions.

15. On issue no. 5 regarding compensation, the Tribunal noted that though the claimants alleged that the deceased earned Rs.6,000 per month through dairy business, no documentary evidence such as sales receipts, registration of dairy work, or tax records was produced. It therefore treated him as an unskilled labourer and assessed income at Rs.150 per day, i.e., Rs.4,500 per month or Rs.54,000 per annum.

16. Deducting one-third for personal and living expenses, the annual dependency was determined at Rs.36,000. Considering the deceased's age as 26 years, a multiplier of 16 was applied, yielding a dependency loss of Rs.5,76,000.



17. Adding Rs.22,000 towards medical expenses, Rs.10,000 towards funeral expenses, and Rs.30,000 towards non-pecuniary damages (loss of consortium, love, and affection), the total compensation came to Rs.6,38,000/-.

18. The Tribunal held the United India Insurance Company Ltd. liable to pay the entire amount with interest at 7% per annum, and issued appropriate directions for apportionment and safeguarding of the minor children's shares.

19. Having heard all the parties and having perused the record of the Tribunal with due care, this Court finds that the award under challenge does not suffer from any legal infirmity or perversity warranting interference in appellate jurisdiction. Learned counsel for the appellant - Insurance Company reiterated that the claim was a fabricated version of an accident that never occurred in the manner alleged, and that there was inordinate delay in lodging the FIR. It was argued that the claimants, in collusion with the owner of the motorcycle, falsely implicated vehicle No. UK-04 J-1463 to obtain compensation. The insurer contended that the Tribunal erred in relying upon the testimony of PW2 Sanjay Pandey, who was the deceased's brother and, therefore, an interested witness. It was also submitted that in the absence of reliable proof of income, the Tribunal's assessment of compensation was arbitrary and excessive.

20. On the other hand, learned counsel appearing for the claimants - respondents supported the award and submitted that the entire case of the Insurance Company rested merely on false allegations and unsubstantiated



suspicion. The testimony of PW2 Sanjay Pandey, an injured eyewitness, was consistent, natural, and duly supported by the medical and documentary evidence on record. The delay in lodging the formal complaint, it was argued, was neither unnatural nor fatal, since the immediate concern of the family was to secure medical assistance and perform last rites. It was further submitted that the insurer's own conduct in settling the "Own Damage" claim of the same vehicle completely demolished its stand that the vehicle was not involved in the accident. Reliance was placed on judicial precedents holding that delay in lodging FIR cannot by itself discredit genuine motor accident claims **Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646 & Ravi v. Badrinarayan, (2011) 4 SCC 693**).

21. Upon consideration of the entire material on record, this Court finds substantial force in the submissions advanced on behalf of the claimants. The evidence of PW2 Sanjay Pandey, who was himself grievously injured in the same occurrence, cannot be discarded merely on the ground that he was related to the deceased. His deposition is clear, coherent, and unshaken in cross-examination. It is fully corroborated by the medical records, admission slips, and post-mortem report. The investigation conducted by DW2 Chandrashekhar Pandey on behalf of the insurer was in a casual and mechanical manner he himself admitted that his report was not based on statements of any eyewitnesses or public persons.

22. The Tribunal rightly noted that the insurer's plea of fabrication was further weakened by the fact that it had itself processed and paid the OD claim of the same motorcycle, an implicit acknowledgment that the vehicle



had been damaged in an accident contemporaneous with the date in question. In such circumstances, the finding of the Tribunal that the accident was caused by the rash and negligent driving of motorcycle No. UK 04 J-1463 is fully justified and calls for no interference. With regard to the question of quantum of compensation, this Court finds that the Tribunal has adopted a reasonable and conservative approach. The income of the deceased was not proved by documentary evidence, but taking him as an unskilled worker earning Rs150 per day (Rs.4,500 per month) was both fair and consistent with the standard notified rates prevailing in 2010. The application of a multiplier of 16 for the age bracket of the deceased and the deduction of one-third towards personal expenses, is in accordance with the ratio laid down in **Sarla Verma v. Delhi Transport Corporation (2009) 6 SCC 121**. The amounts awarded under conventional heads - for funeral expenses, medical treatment, and loss of consortium are modest and reasonable. The insurer has failed to prove that there was any breach of policy conditions or that the driver lacked a valid and effective licence. On the contrary, the record demonstrates that all statutory documents - registration, insurance policy, and driving licence were in force on the date of the accident. The liability of the insurer is, therefore, absolute and statutory.

23. Having carefully considered all the contentions, this Court finds no reason to differ from the well-reasoned findings of the Tribunal either on the question of negligence or quantum. The compensation awarded is just, proper, and commensurate with the loss suffered by the dependents. The appeal filed by United India Insurance Company Ltd. is dismissed.



2025:UHC:9610

24. Let the statutory amount i.e. Rs.25,000/- be remitted back to the learned Tribunal forthwith if not already remitted. The compensation deposited with the learned Tribunal be released in favour of the respondents/claimants including the statutory deposit along with interest accrued thereon, if any, if not already released. Rest of the amount of compensation be deposited by the appellant i.e. in the Tribunal along with interest within one month from today.

25. Pending application, if any, stands disposed of accordingly.

(Pankaj Purohit, J.)
30.10.2025

AK