



2025:UHC:11334

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			A.O. No.107 of 2025 <u>Hon'ble Alok Mahra, J.</u> Mr. Amit Kapri, Advocate for the appellant. Mr. Rajesh Joshi, Advocate for respondent nos.1 to 3. Mr. Mani Kumar, Advocate for respondent no.4. 2. This Appeal from Order has been preferred by the appellant—Insurance Company assailing the judgment and award dated 30.11.2024, passed by the learned Motor Accident Claims Tribunal/ District Judge, Nainital, in M.A.C.P. No. 145 of 2022, whereby the learned Tribunal has awarded compensation in favour of the claimants on account of the death of Smt. Pushpa Kandpal in a motor vehicle accident. 3. The brief facts, as emerging from the record, are that on 10.12.2017 at about 05:00 p.m., the deceased, Smt. Pushpa Kandpal, was travelling as a pillion rider on motorcycle bearing registration no. UK-06-AP-3282, being driven by one Kamal Singh Fartyal. When they reached near Kichha Road, Bhadaipura, Rudrapur, a truck bearing registration no. UP-25-CT-4435, coming from behind in a rash and negligent manner, collided with the said motorcycle. As a result of the said impact, the deceased was thrown off the motorcycle and sustained severe injuries. She was initially taken to Amrit Hospital, Rudrapur, then referred to Dr. Sushila Tiwari Hospital, Haldwani, and thereafter



		admitted to Shri Ram Murti Hospital, Bareilly, where she succumbed to her injuries on 03.01.2018 during treatment. 4. The appellant/Insurance Company has challenged the impugned award primarily on two grounds: first, that the learned Tribunal has erred in holding that the accident occurred due to contributory negligence of both the drivers, i.e., of the motorcycle and the truck; second, that the Tribunal erred in assessing the monthly income of the deceased at ₹20,000/- in the absence of any cogent documentary proof of such income for the year 2017. 5. Learned counsel for the appellant submits that the finding of contributory negligence recorded by the Tribunal is perverse and contrary to the evidence on record. It is argued that the evidence clearly establishes that the truck hit the motorcycle from behind, thereby indicating negligence solely on the part of the truck driver. It is further contended that even in the case of contributory negligence, the claimants are entitled to seek compensation to the extent attributable to the negligence of each vehicle. 6. As regards the income of the deceased, learned counsel for the appellant submits that the Tribunal committed error in assuming a monthly income of ₹20,000/- in the absence of any documentary proof. According to the appellant, in the year 2017, such assumption was excessive and unsupported by record. 7. Per contra, learned counsel for the respondents contends that the accident
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		was clearly the result of rash and negligent driving on the part of the truck driver, as the vehicle struck the motorcycle from behind. It was further submitted that the claimants have placed on record the bank statement of the deceased for the year 2015–2016, showing her monthly earnings to be more than ₹30,000/-, which justified the Tribunal's finding. Learned counsel also placed reliance on the judgment rendered by Hon'ble Supreme Court in Khenyei Vs. New India Assurance Co. Ltd. & Ors., reported in (2015) 9 SCC 273, to submit that where vehicles are involved in composite negligence, claimants can recover full compensation from any one of the joint tortfeasors. 8. Having heard learned counsel for the parties and perused the record, this Court is of the considered view that there is no infirmity in the conclusion reached by the learned Tribunal either with respect to the assessment of negligence or computation of income and compensation. The award does not call for interference in appellate jurisdiction. 9. Accordingly, the Appeal from Order fails and is dismissed. 10. The statutory amount, if deposited by the appellant at the time of filing the appeal, shall be remitted to the Tribunal concerned for adjustment towards the award amount. The balance amount, if any, shall be released in favour of the claimants as per the directions of the Tribunal. (Alok Mahra, J.) 18.12.2025 Arpan
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