



2025:UHC:11421

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			AO No.173 of 2024 <u>Hon'ble Alok Mahra, J.</u> Mr. Pulak Agarwal, learned counsel for the appellant. 2. Mr. D.C.S. Rawat and Mr. Mayank Pandey, learned counsel for respondent nos.2 and 3. 3. The present Appeal from Order has been preferred by the appellant—insurance company assailing the judgment and award dated 23.02.2024 passed by the Motor Accident Claims Tribunal / 2nd Additional District Judge, Kashipur, District Udham Singh Nagar in MACP No. 141 of 2019, Anantdeep Randhawa and others vs. Reliance General Insurance Co. and others, whereby compensation to the tune of ₹2,05,87,028/- along with interest at the rate of 6% per annum from the date of filing of the claim petition has been awarded in favour of the claimants. 4. Brief facts of the case are that on 02.12.2018, at about 10:30 p.m., the husband of respondent no.1, namely Pankit Sabbarwala, was travelling in his car bearing registration no. UK-18F-0900 and reached the DS Road, T.P. Nagar intersection from Sector-63. At that time, a Mahindra XUV-500 bearing registration no. DL-12-CA-1922, being driven in a rash and negligent manner,



		collided with the rear door of the said vehicle. As a result of the accident, Pankit Sabbarwala sustained grievous injuries and was taken to Fortis Hospital, where he succumbed to the injuries during treatment. FIR No. 1732 of 2018 was registered at District Gautam Buddha Nagar under Sections 279, 338, 304-A and 427 of the Indian Penal Code. The deceased was about 25 years of age and was a young and hardworking entrepreneur running a business under the name “Study Overseas Consultancy”. As per his income-tax return for the year 2018, his annual income was ₹26,41,150/-. His untimely demise caused immense mental agony and financial loss to the claimants, who were deprived of his love, affection and future support. 5. Learned counsel for the appellant submits that the learned Tribunal committed a manifest error in fastening the entire liability upon the appellant–insurance company. It is contended that the accident occurred due to rash and negligent driving of the driver of vehicle no. UK-18 F-0900 and that the case was one of contributory negligence. It is further argued that despite a specific plea having been taken in the written statement, the learned Tribunal failed to frame any issue with regard to contributory negligence and ignored the material evidence on record. 6. Learned counsel for the appellant further submits that the site plan clearly establishes contributory negligence, as the accident occurred at a crossing.
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			According to the site plan, the vehicle of the deceased was on the highway, whereas the other vehicle approached from a crossing at an angle of about 90 degrees. This crucial piece of evidence was not properly appreciated by the learned Tribunal while passing the impugned award. 7. Learned counsel for the appellant further contended that the compensation awarded by the learned MACT is not in conformity with the provisions of the Motor Vehicles Act. It was submitted that the Tribunal has erroneously assessed the income of the deceased, despite the fact that the alleged income was neither duly proved nor supported by any cogent evidence. It was further contended that the Tribunal failed to consider that there was no loss of income, as the deceased was engaged in a family-run business, which continued to operate even after his demise. 8. Per contra, learned counsel appearing for respondent nos. 2 and 3 has vehemently opposed the submissions advanced on behalf of the appellant and has supported the impugned award, contending that the learned Tribunal has rightly appreciated the evidence and awarded just and reasonable compensation. 9. This Court has heard learned counsel for the parties and has carefully perused the entire material available on record. With regard to the contention of learned counsel for the appellant that the learned Tribunal erred in assessing the
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		income of the deceased, this Court finds no substance in the said submission. The claimants placed on record the Income Tax Returns of the deceased for the assessment years 2017–18, 2018–19 and 2019–20, which were duly proved by PW-3, who verified the said returns with the original records of the Income Tax Department. On the basis of the said documentary evidence, the Tribunal correctly assessed the annual income of the deceased by taking the average of the three ITRs and rightly determined the same to be ₹16,55,944/-. Therefore, this Court finds no error or illegality in the determination of the annual income by the learned MACT. 10. As regards the further contention of learned counsel for the appellant that there was no loss of income on the ground that the deceased was running a family business, this Court finds that the said contention is not supported by any evidence on record. On the contrary, the pleadings and documents clearly establish that the deceased was the proprietor of a firm under the name and style of “<i>Study Overseas Consultancy</i>”, and the said business cannot be termed as a family business. 11. Upon consideration of the evidence on record, particularly the site plan, this Court is of the view that there was some degree of contributory negligence on the part of the deceased. However, such contributory negligence appears to be marginal in nature. In the facts and circumstances of the case, this Court is of the considered opinion that deduction
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			of 5% from the total awarded compensation on account of contributory negligence would meet the ends of justice. 12. Accordingly, 5% of the awarded compensation shall stand deducted towards contributory negligence, and the remaining compensation amount, along with interest as awarded by the learned Tribunal, shall be paid by the appellant–insurance company. 13. The Appeal from Order is accordingly disposed of in the aforesaid terms. (Alok Mahra, J.) 19.12.2025 BS BALWAN T SINGH Digitally signed by BALWAN T SINGH DN: c=IN, o=COURT OF UTTARANCHAL, ou=OFFICE OF UTTARANCHAL, 2.5.4.20f86d7f1c8db3e6a27e15eaf72, st=UTTARANCHAL, serial=2822, postalCode=248001, uri=uttaranchal.nic.in, email=BalwanT.Singh@uttarakhand.gov.in, cn=BALWAN T SINGH Date: 2025.12.20 14:27:59 +05'30'
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