

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

MA No.80/2017

Reserved on: 03.09.2026

Pronounced on: 14.09.2026

Uploaded on : 14.09.2026

National Insurance Company Limited through its Incharge
TP-Hub, Shalimar Building, Shalimar Road, Jammu Appellant(s)

Through:-Mr. Baldev Singh, Advocate

V/s

1. Gurcharan Singh S/o Late S. Jaswant Singh
Resident of Ward No.7, Mohalla Kaman Khan,
Poonch City
2. Chandandeeep Singh son of S. Gurcharan Singh
Resident of Ward No.7, Mohalla Kaman Khan, Poonch City
...Respondent(s)

Through:- Mr. Dheeraj Choudhary, Advocate with
Mr. Ronik Sharma, Advocate

Coram: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

JUDGMENT

1. This appeal filed under Section 173 of the Motor Vehicles Act, 1988 is directed against an award dated 31st January, 2017 passed by the Motor Accident Claims Tribunal, Poonch (herein after referred to be as the "Tribunal") in File No.6/Claim titled *Gurcharan Singh v. National Insurance Company Ltd* and another, whereby an award of Rs.5,70,000/- along with interest @ 7.5% per annum from the date of institution of the claim petition till realization in favour of the claimant/respondent.

3. On 23rd July, 2013, respondent No.1 while travelling in his Wagon-R bearing Registration No.JK12/5891 was going to Jammu from Poonch. When reached at Pathi Bawali, Jammu-Poonch National Highway near Chingus, due to rash and negligent driving of the vehicle by its driver, an accident happened, as a result respondent No.1 sustained grievous injuries i.e. fracture left humerus commuted. The total disability of respondent No.1 was assessed at 50%. A claim petition came to be filed by the claimant/respondent No.1 claiming compensation for the injuries sustained by him in the accident. The claim was opposed by the appellant-Insurance company on the ground that the driver of the vehicle was not holding valid and effective driving license, the vehicle was being plied in violation of the terms and conditions of the insurance policy. It was also pleaded that since the claimant himself is the owner of the vehicle, he cannot claim compensation.

4. On the basis of the pleadings of the parties, the Tribunal framed following issues:-

- “1. Whether the petitioner suffered injury and disablement due to the accident of vehicle No.JK12-5891 (Vagnar) on 23.7.2013 at Chingus, Rajouri-Poonch road due to rash and negligent driving of the respondent No.1 ?
OPP

2. *In case issue No.1 is proved in affirmative, whether the petitioner is entitled for compensation, if yes, to what extent? OPP*
 3. *Whether the claim of the petitioner is not covered by the Insurance policy of respondent No.1 for 3rd party risk, if yes, how? OPR-I ”*
3. In order to substantiate his claim, respondent No.1 examined Ujager Singh, Krishan Singh and Dr. Tariq Mehmood, an Ortho Consultant, besides himself entering in the witness box. However, the appellant-Insurance Company has not adduced any evidence in rebuttal.
 4. After hearing both the sides, considering the evidence and material on record, the Tribunal vide award impugned dated 31.01.2017, awarded compensation of Rs.5,70,000/- in favour of respondent No.1 with the following breakup:-

Medical expenses=	Rs.4,00,000/-
Boarding lodging plus special diet	Rs. 60,000/-
Mental agony and torture including pain and suffering	Rs.50,000/-
Future care and treatment	Rs.60,000/-
 5. The appellant-Insurance Company is aggrieved of the impugned award preferred the present appeal against the impugned award.
 6. Learned counsel for the appellant-Insurance assails the impugned award primarily on the ground that the insured does not fall within the definition of “third party”, therefore, respondent No.1 is not

entitled to any compensation. Reliance has been placed on various judgments of High Courts including a judgment of this Court.

7. *Per contra*, learned counsel for the claimant-respondent No.1 submits that the impugned award is legally perfect and does not call for any interference by this Court in this appeal.
7. Heard learned counsel for the parties and perused the material available on record.
9. It is an admitted position that the claimant/respondent No.1 is the owner of the vehicle. The vehicle was being driven by another person. The accident occurred due to rash and negligent driving of the vehicle. The claimant being the owner of the offending vehicle was not a third party within the meaning of the Motor Vehicles Act.
9. The primary question that arises for consideration in this appeal is, whether an owner of the vehicle, who sustained injuries while travelling in his own vehicle as a passenger, is entitled to compensation?
10. In order to appreciate the controversy involved in this appeal, we need to examine the Insurance Policy, which was in force at the time of accident. A bare perusal of the Insurance Policy, which is part of the record, indicates that the appellant-insurance company has charged total premium of Rs.7599/-, which includes Rs.100/- on

account of compulsory PA cover Premium and Rs.250/- on account of additional PA cover premium for five persons.

11. It appears that an additional premium of Rs.250/- has been paid for personal accident for other five persons in addition to the premium. The vehicle in question was having seating capacity of five persons and this is not the case of the appellant-insurance company that at the time of accident, more than five persons were travelling in the offending vehicle. Since the owner himself was covered under the policy to get compensation as he had paid additional premium and that he was not driving the vehicle in question, which was validly insured, the claimant cannot be denied compensation merely on the ground that being owner of the vehicle he is not entitled to seek compensation.

12. In ***National Insurance Company Ltd. v. Smt. Thungala Dhana Laxmi and others***, 2026 INSC 793, the Supreme Court while considering the issue, whether there should be a uniform motor-vehicle policy structure covering all occupants of a vehicle, in addition to the statutorily mandated coverage of third party risks, has held that insurance companies are liable to compensate for any occupant in the vehicle under a comprehensive/package policy. Para 34 of the judgment is relevant for our purposes and is reproduced hereunder:-

“34.It is well settled that in matters concerning motor accident claims, Courts should not adopt a typer-technical approach. As rightly submitted by the claimant-respondents, in accordance with the circular of the IRDA dated 16.11.2009, insurance companies are liable to compensate for any occupant in the vehicle under a comprehensive/package policy. Consequently, we find no reason to disagree with the reasoning adopted by the High Court. The present civil appeal is dismissed to that extent. (See) **Surekha and others v. Santosh and others, (2021) 16 SCC 467.**”

13. In terms of the judgment of the Supreme Court, a compressive or package motor insurance policy covers the vehicle owner and all occupants. The insurance company is liable to compensate for any occupant. An occupant in a car means any person who is inside, entering, or exiting the vehicle. Since the insurance policy in the present case was a comprehensive policy, as such, the plea raised by the Insurance Company to assail the award of the Tribunal deserves to be rejected.
14. With regard to the compensation, since the claimant was a pensioner, as such nothing was awarded on account of loss of income and only medical expenditure and other expenses, which, by no stretch of imagination can be said to be excessive or exorbitant.
15. In view of the above, the appeal found to be without any merit, hence dismissed. The appellant-Insurance company to satisfy the

award and the deposit the amount awarded by the Tribunal before Registry of this Court, if not already deposited, within a period of two months, which shall be released in favour of the claimant-respondent No.1 on proper identification and verification.

(Moksha Khajuria Kazmi)
Judge

Jammu.
14.09.2026
Vinod.

Whether the order is speaking : Yes
Whether the order is reportable: No

