



HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 32 of 2011

24 August, 20 26

The New India Assurance Company Limited

--Appellant

Versus

Shiv Shankar Singh & others

--Respondents

Presence:-

Mr. T.A. Khan, learned Senior Advocate assisted by Ms. Sheeba Ahmed, learned counsel holding brief of Mr. Vinay Bhatt, learned counsel for the appellant.

Mr. V.D. Bisen, learned counsel for respondent-claimant no.1.

None present for respondent no.2 (owner), respondent no.3 (driver) and respondent no.4 (owner of another vehicle i.e. Car No.UA-06/D-3200)

Mr. Prabhat Pande, learned counsel for respondent no.5.

Hon'ble Pankaj Purohit, J.

The appeal is directed against the judgment and award dated 10.11.2010 passed by the learned MACT/Additional District Judge/FTC-1st, Udham Singh Nagar (Rudrapur), in MACP Case No. 450/2007, *Shiv Shankar Singh vs. Lovely Arora & Others*, whereby an amount of Rs.2,27,000/- was awarded to the respondent-claimant along with interest @ 6% per annum from the date of filing of the claim petition, i.e., 19.12.2007, till the actual payment was made. The amount of compensation was directed to be paid by the appellant-insurance company, and the appellant-insurance company was given the right to recover the same from respondent nos. 2 & 3, the owner and driver of Bus No. D.L.-1P.A.-4687.

2. The claim petition was filed by the claimant stating that on 06.11.2006, during the night, the claimant and one Ajeet Singh were returning after



participating in the marriage ceremony in his Maruti Alto Car No. U.A.-06/D-3200; the car was hit from behind by Bus No.D.L.-1P.A.-4687, which was being driven rashly and negligently by its driver, causing fatal injuries to the petitioner. The First Information Report was lodged at P.S. Rudrapur in Case Crime No. 4022 of 2006. At the time of the accident, the claimant was 23-year old educated person and was working as a farmer, earning Rs. 4,000/- per month. In the said accident, the respondent-claimant sustained injuries to his hand and shoulder. He was put under treatment at Amit Hospital, Rudrapur, and Apollo Hospital, Delhi, and underwent an operation. He was hospitalized for a period of six months. The respondent-claimant further pleaded in the claim petition that his treatment incurred expenses of Rs. 5,07,000/- towards the doctor's fee, pathology tests and medicines. Apart from that, he claimed Rs. 70,000/- towards miscellaneous expenses for travelling to and fro and other miscellaneous expenses under different heads, a total compensation amounting to Rs.7,47,000/- along with interest.

3. The respondent-owner and driver of the bus, despite sufficient service, did not participate in the trial before the learned Tribunal and were proceeded ex parte by the learned Tribunal on 11.05.2009. The appellant-Insurance Company contested the claim by filing a written statement denying the accident. It was also contended that, at the time, the bus involved in the accident did not possess any valid and effective documents, the driver was not holding a valid and effective driving licence; the accident occurred due to contributory negligence of the driver of the Alto Car in



which the respondent-claimant was travelling. It was further pleaded by the appellant-Insurance Company that the owner and driver of the Alto Car were not impleaded as parties-respondents in the claim petition, therefore, there was a defect of non-joinder of necessary parties, and the petition deserved to be set aside on the said count also. Respondent no. 5-National Insurance Company also filed a written statement, mainly contending that the claim petition deserved to be dismissed against respondent no. 5-National Insurance Company, as the accident occurred due to the rash and negligent driving of the driver of Bus No. D.L.-1P.A.-4687. The respondent-Insurance Company further took a plea that the driver of the car was not holding a valid driving licence and that there was a defect of non-joinder of necessary parties.

4. Respondent no. 6-Sarvjeet Singh, the driver of the Alto Car, also filed a written statement admitting the factum of the accident. It was also accepted that, at the time of the accident, he was driving Alto Car No. U.A.-06/D-3200 and that he had nothing to do with the accident and had been wrongly impleaded as a party.

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

“1. Whether on 06.11.2006 at about 1:30 a.m., when the petitioner was travelling seated on the rear seat of Maruti Alto Car No. UA-06D-3200, upon reaching near Hotel Sonia, Rampur Road, Rudrapur, District Udham Singh Nagar, the bus bearing registration No. DL-1PA-4687, being driven by its driver rashly and negligently, collided with the Maruti Alto car, as a result of which the petitioner sustained grievous injuries? If so, what is



its effect?

2. Whether the accident in question occurred due to the negligence of the driver of Maruti Alto Car No. UA-06D-3200 himself? If so, what is its effect?

3. Whether, on the date and at the time of the accident in question, the driver of the bus which caused the accident was not holding a valid and effective driving licence? If so, what is its effect?

4. What compensation is the petitioner entitled to receive, and from which party?"

6. The learned Claims Tribunal recorded a finding on issue nos. 1 & 2 that the accident occurred due to the rash and negligent driving of the offending Bus No. D.L.-1P.A.-4687, on the basis of the evidence available on record and the police papers. The issues were decided in favour of the claimant and against the appellant-Insurance Company. Since the Alto Car was hit by the bus from the back side, it was also recorded that there was no rashness or negligence on the part of the driver of the Alto Car.

7. On issue no.3, it has been stated that, at the time of the accident, the bus was found to have valid documents. So far as the driving licence of the driver of the bus is concerned, the finding was recorded on the basis of the evidence brought on record that the driving licence of the driver of the bus was not valid and effective on the date of the accident, as the same had not been renewed on the date of the accident.

8. On issue no.4, it has been recorded by the learned Tribunal, after going through the evidence, that the claimant was entitled to get a sum of Rs. 2,27,000/- as compensation from the owner/driver of the offending Bus No. D.L.-1P.A.-4687. Since the driver of the vehicle



did not possess an effective licence on the date of the accident, the appellant-Insurance Company was granted the right to recover the amount from the owner and driver of the bus, i.e., respondent nos. 2 & 3.

9. It is feeling aggrieved by the aforesaid judgment and award that the appellant-Insurance Company is before this Court in appeal.

10. It is contended by the learned Senior Advocate appearing for the appellant that the controversy involved in such cases, where the driving licence is not effective, as to whether the right of recovery is to be given to the Insurance Company, has now been set at rest. The Hon'ble Apex Court, in the case of **K. Nagendra vs. The New India Insurance Co. Ltd. & others**; reported in **2025 SCC OnLine SC 2297**, has recorded that in such cases, the right of recovery can be given to the appellant-Insurance Company.

11. In view of the aforesaid, since the right of recovery has already been given to the appellant-Insurance Company by the learned Tribunal, the same needs no interference by this Court. Accordingly, the finding recorded by the learned Claims Tribunal cannot be interfered with. The appeal is accordingly dismissed. The judgment and award dated 10.11.2010 passed by the learned Motor Accident Claims Tribunal/Additional District Judge, FTC-1st, Udham Singh Nagar (Rudrapur), in MACP Case No. 450 of 2007, is hereby affirmed.

12. The appellant shall deposit the remaining decretal amount before the Tribunal concerned, along with the interest accrued thereon, within one month from today. If the amount under the award had already been deposited by the appellant before the MACT as per the



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order of this Court dated 11.03.2011, the Tribunal, in that event, is directed to release the entire amount, along with the interest accrued thereon up to date, in favour of the respondent/claimant, within one month from today.

13. Let TCR be sent back for doing the needful.

(Pankaj Purohit, J.)
24.08.2026

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