



HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No.478 of 2010

12th August, 2026

New India Assurance
Company Limited

.....Appellant

Versus

Sri Govind Lal and another

.....Respondent

Presence:-

Mr. Bindesh Kumar Gupta, learned counsel for the appellant

Mr. Vipul Painuly, learned counsel for respondent no.1.

Mr. N.S. Pundir, learned counsel for respondent no.2.

Hon'ble Pankaj Purohit, J.

This Appeal from Order under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "Act of 1988") has been preferred by the appellant-New India Assurance Company Limited assailing the judgment and award dated 04.09.2010 passed by the Motor Accident Claims Tribunal/District Judge, Tehri Garhwal in M.A.C.P. No. 16 of 2008, *Govind Lal vs. Smt. Sushila Pawar and another*, whereby the claim petition was allowed and compensation of ₹3,72,000/- along with interest at the rate of 5% per annum from the date of filing of the claim petition was awarded in favour of the claimant.

2. The facts of the case, as reflected from the record, disclose that respondent no.1-Govind Lal, instituted a claim petition under Section 166 of the Act of 1988 seeking compensation on account of the death of his wife, Smt.Laxmi Devi, in a motor vehicle accident which occurred on 11.04.2008. It was submitted that the deceased, aged about 35 years, was travelling in a Tata Sumo bearing registration No.UA-07-1705, owned by respondent no.1, while she was proceeding towards her



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parental village. At about 11:30 a.m., near Chandakoli Banali Tok, village Banali, Patti Raika, Tehsil Pratapnagar, District Tehri Garhwal, the vehicle, being driven by its driver Tejpal Singh rashly and negligently and at a high speed, met with an accident and fell into a ditch. The deceased and the driver sustained injuries and the deceased succumbed to the injuries at the spot. Her post-mortem was conducted. It was further pleaded that prior to her death, the deceased was engaged in agriculture, animal husbandry and manual labour and was earning approximately ₹3,000/- per month. On these assertions, a compensation of ₹13,40,000/- was claimed.

3. Respondent no.1, the owner of the offending vehicle, admitted the occurrence of the accident but disputed the allegation that the accident was caused due to rash and negligent driving. According to him, the accident had occurred because of a technical defect which suddenly developed in the vehicle. It was further stated that the vehicle possessed all necessary documents, including registration, permit, fitness certificate and insurance, and that the driver possessed a valid driving licence.

4. The appellant-insurance company contested the claim. It was submitted that the accident was not caused due to rash and negligent driving of the vehicle but because of mechanical/technical failure. It was further alleged that the deceased was travelling in the vehicle as a gratuitous passenger, although the vehicle was carrying cement and was being used for transportation purposes. The insurer also disputed the income of the deceased and contended that there was no documentary or reliable oral evidence establishing any income. It was additionally pleaded that respondent no.1 was not legally entitled to claim compensation as the marriage between him and the



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deceased was not valid, since he had earlier been married to Smt.Mangla Devi and had two children from the said marriage. The insurer further alleged breach of the terms of the insurance policy on the ground that the driver did not possess a valid driving licence and that the requisite permit and other statutory documents were not available.

5. On the basis of the pleadings of the parties, the learned Tribunal framed, *inter alia*, the following issues:

- (1) Whether the accident in question took place at about 11:30 am on 11.04.2008 at place at Chandakoli Banali Tok of village Banali, Patti Raika Tehsil Pratapnagar within Patwari Circle kotha, District Tehri Garhwal due to rash and negligent driving of Tata Sumo No.UA-07-1705 by its driver, resulting in the death of Smt. Laxmi Devi as alleged?
- (2) Whether the driver of the offending vehicle did not possess a valid driving licence and the owner did not possess a valid permit and fitness certificate and, if so, its effect?
- (3) To what compensation, if any, is the petitioner entitled and from whom?

6. The Tribunal, after considering the pleadings and evidence on record, proceeded to decide the issues as under:

On issue no.1 relying upon the testimony of PW-1 and PW-2, the Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle by its driver. The issue was accordingly decided in favor of the claimant.

On issue no.2 on the basis of the documents produced on record, the Tribunal found that the vehicle, its permit, fitness certificate, insurance policy and the driver's licence were valid on the date of the accident. The insurer having failed to establish any breach of the policy conditions, the issue was decided against it.



On issue no.3 the Tribunal assessed the deceased's annual income at ₹36,000/-, deducted one-third towards personal expenses and applied the multiplier of 15, awarding ₹3,60,000/- towards loss of dependency. Adding ₹12,000/- under the other heads, a total compensation of ₹3,72,000/- with interest at 5% per annum was awarded in favor of the claimant.

7. Having considered the submissions of learned counsel for the parties and perused the record, this Court finds that the appeal is devoid of merit. The principal grounds urged by the appellant relate to the status of the deceased as a passenger, validity of the driving licence/permit and the marital status of the claimant. So far as the liability towards the deceased is concerned, the contention of the appellant that the vehicle was a commercial vehicle carrying goods and, therefore, the deceased was not covered under the policy, cannot be accepted. The insurance certificate itself describes the vehicle as a "Passengers Carrying Commercial Vehicle" with a seating capacity of nine persons and specifically provides for "Liability to Passenger(s)". Thus, the mere fact that the vehicle was a commercial vehicle or was carrying goods does not, by itself, exclude passenger liability under the policy. The deceased was, therefore, a passenger covered by the policy.

8. The objection regarding the driving licence and alleged absence of authorization to drive on hill roads also does not merit acceptance. The material on record establishes that the driver possessed a valid driving licence. The issue of absence of hill endorsement is no longer *res integra* so far as this Court is concerned. In the case of *United India Insurance Co. Ltd. v. Prem Bisht & Anr.*, reported in 2007 SCC OnLine Utt 23, this Court, relying



upon the principles laid down by the Apex Court in *National Insurance Co. Ltd. v. Swaran Singh* reported in 2004 (3) SCC 297, held that non-endorsement authorising driving in hill areas, in the circumstances of the case, did not constitute a breach of Section 149(2)(a)(ii) so as to absolve the insurer. The same view had earlier been taken by the Division Bench in *New India Assurance Co. Ltd. v. Smt. Kala Devi alias Kalawati Devi & Ors.*, reported in 2007 (2) UD 557.

9. In the present case also, the appellant has failed to establish any such fundamental breach of the policy conditions as would absolve it of its statutory liability towards the third-party claimant. The documents on record further establish the validity of the vehicle's statutory documents at the relevant time. Consequently, the objection founded upon the alleged absence of a separate hill authorisation cannot be accepted. The objection regarding the marital status of the deceased also has no substance. The evidence on record, including the family register and other documentary evidence, establishes that the claimant's earlier wife, Smt. Mangla Devi, had died several years before his marriage with Smt. Laxmi Devi. The appellant has produced no cogent evidence to establish that the marriage between the claimant and the deceased was invalid or that any earlier marriage was subsisting at the relevant time. The finding of the Tribunal on this aspect, therefore, calls for no interference. The finding of the Tribunal regarding the accident having occurred due to rash and negligent driving of the offending vehicle is supported by the oral as well as documentary evidence on record. The compensation awarded by the Tribunal is consequently not shown to suffer from any perversity or error warranting interference in the present appeal.



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10. For the foregoing reasons, this Court finds no illegality or infirmity in the impugned award warranting interference under Section 173 of the Act of 1988.

11. The appeal is accordingly dismissed.

12. The award dated 04.09.2010 passed by the Motor Accident Claims Tribunal/District Judge, Tehri Garhwal in Motor Accident Claim Case No.16 of 2008 is affirmed. Consequences i.e. releasing amount under award kept in FDR under order of this Court dated 22.02.2011 along with entire interest accrued thereon in favour of respondent no. 1-claimant Govind Lal, would follow.

(Pankaj Purohit, J.)

12.08.2026

SK
SHUBHAM
KAPRIWAN