



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 494 of 2013

Smt. Raji Devi and Others

... Appellants

Versus

Director, Reliance General Insurance Company Ltd.

Dehradun

... Respondent

Presence:-

Ms. Ruchika Negi, learned counsel holding brief of Mr. Sandeep Kothari, learned counsel for the appellants.

Mr. Pulak Agarwal, learned counsel for the respondent.

Hon'ble Siddhartha Sah, J. (Oral)

By means of the present appeal from order under Section 173 of the Motor Vehicles Act, 1988, the appellants/claimants have assailed the judgment and award dated 30.08.2012, passed by the learned Motor Accidents Claims Tribunal / Additional District Judge, Tehri Garhwal in M.A.C.P. Case No. 19 of 2011, Smt. Raji Devi and Others Vs. Director Reliance General Insurance Company Ltd., Dehradun.

2. The claim petition was filed with the averment that the deceased, Sundar Singh, was driving his vehicle bearing registration no. U.A.-07-R-8623 on 20.07.2007, and was proceeding from Chamiyala to Ponada to his village, and carrying passengers. At 8:00 O'clock in the evening, in a place within Village Gona, Bhakudawa, within Revenue Police Area Dalla/Gona, due to a technical failure, the vehicle in question met with an accident in which Sundar Singh died on the spot. The



deceased was also the owner of the vehicle that met with the accident.

3. As per the claimants, the age of the deceased at the time of the accident was 33 years, and his monthly salary was Rs.8,000/-. Hence, the claimants claimed compensation of Rs.15,44,000.00.

4. The insurance company contested the said claim petition by filing its written statement and refuting the averments of the claim petition, as well as disputing the very validity of the documents of the vehicle contended that since the deceased was himself the vehicle owner, he was not a third party, nor did he fall within the definition of "workman", therefore, the vehicle owner is not entitled to any compensation for his self-owned vehicle.

5. On the basis of the rival pleadings of the parties, the learned Motor Accidents Claims Tribunal framed as many as four issues.

6. On Issue No. 1, the Motor Accidents Claims Tribunal came to the conclusion that the claimants could not prove the fact that the vehicle was being driven rashly and negligently. It could also not be proved that the vehicle met with the accident due to technical failure.

7. On Issue No. 2 with regard to the vehicle being driven with valid documents, was decided against the opposite parties.

8. Issue No. 3 was whether the insurance company is liable for compensation on account of damage/loss of the vehicle owner, as pleaded in paragraph 24 of the written statement?

9. Issue No. 4 was whether the claimants are



entitled to any compensation from the opposite parties?

10. Issues No. 3 and 4 were decided by the Motor Accidents Claims Tribunal to the effect that it is settled law, as laid down by the Hon'ble Supreme Court in catena of judgments, that on account of death or injury to the vehicle owner, the insurance company is not liable for any compensation. Thus, the Tribunal proceeded to decide issues No. 3 and 4 against the claimants and in favor of the insurance company.

11. Aggrieved against the said determination of the Motor Accidents Claims Tribunal / Additional District Judge, Tehri Garhwal, the claimants are in appeal before this Court.

12. Assailing the impugned judgment and award dated 30.08.2012, learned counsel for the appellants submitted that the deceased was driving the vehicle at that time and there was no negligence on his part. It was submitted that there was a technical fault in the vehicle due to which the vehicle met with an accident. On account of this, the vehicle owner, who was himself driving the car, met with an accident; therefore, the claimants would be entitled to compensation.

13. Learned counsel for the appellants further submitted that the learned Claims Tribunal has not considered the provisions of Section 147 of the Motor Vehicles Act, inasmuch as the vehicle was statutorily insured for the driver, and the deceased, though the owner of the vehicle at the relevant point of time was discharging the duty of the driver.

14. Another ground taken by the appellant is that the Claims Tribunal had not considered the provisions of



Section 163A in the right perspective (though the petition had been preferred under Section 166 of the Motor Vehicles Act) but the provisions of Section 163A have not been considered, under which no ownership is required to be proved for claimants to be entitled to compensation on a structured formula basis.

15. Thus, learned counsel for the appellant submitted that the Claims Tribunal failed to consider that at the relevant point of time, the deceased was discharging the duties of the driver and was statutorily covered by the insurance policy, and as such, for his death, the legal heirs are liable to be paid compensation.

16. Per contra, learned counsel for the respondent, Mr. Pulak Agarwal, submitted that the driver of the vehicle was himself the owner and was a tortfeasor. He could not have claimed any compensation for his own negligence, if at all the claimants could have proved a case of rash and negligent driving. All the three witnesses produced on behalf of the claimants/appellants themselves stated that it was not a case of negligence, therefore, the Motor Accidents Claims Tribunal has rightly come to the conclusion on Issue No. 1 that the claimants could not prove rash and negligent driving or technical failure.

17. The learned counsel for the Insurance Company further submitted that since the deceased was not a third party and was himself the owner, the claim petition was not maintainable. Even in the policy, there was no coverage for the owner-driver, as per the clear finding in Issue Nos. 3 and 4.

18. Learned counsel for the Insurance Company buttressed his submissions by placing reliance upon the



judgment of the Hon'ble Supreme Court in the case of National Insurance Company Ltd. v. Ashalata Bhowmik and Others, AIR 2018 SC 4133, wherein, he has placed reliance on paragraph no.7 of the aforesaid judgment, which is extracted hereunder for ready reference:-

“7. We have carefully considered the submissions of the learned counsel made at the Bar and perused the materials placed on record. It is an admitted position that the deceased was the owner-cum-driver of the vehicle in question. The accident had occurred due to the rash and negligent driving of the vehicle by the deceased. No other vehicle was involved in the accident. The deceased himself was responsible for the accident. The deceased being the owner of the offending vehicle was not a third party within the meaning of the Act. The deceased was the victim of his own action of rash and negligent driving. A Claimant, in our view, cannot maintain a claim on the basis of his own fault or negligence and argue that even when he himself may have caused the accident on account of his own rash and negligent driving, he can nevertheless make the insurance company to pay for the same. Therefore, the respondents being the LRs of the deceased could not have maintained the claim petition filed under Section 166 of the Motor Vehicles Act.”

19. A perusal of paragraph 7 reveals that where the deceased was the owner-cum-driver of the vehicle in question and was himself responsible for the accident,



not being a third party within the meaning of the Act, the claimants cannot maintain a claim on that basis.

20. Learned counsel for the respondent further placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Dhanraj v. New India Assurance Co. Ltd. and Another* (2004) 8 SCC 553, & submitted that an insurance policy covers liability incurred by the insured in respect of death or bodily injury to any person (including passengers), but Section 147 does not require an insurance company to assume risk for death or bodily injury to the owner of the vehicle himself. Thus, as there is no provision covering the risk for death or bodily injury to the owner under Section 147 of the Motor Vehicles Act, the claim petition cannot succeed.

21. After hearing the learned counsel for the parties, the moot question that falls for determination in this appeal is whether the legal representatives of an owner of a vehicle who was himself driving the vehicle at the time of the accident can maintain a claim petition for compensation on account of the death of the owner-cum-driver. The law on this aspect is well settled, as is evident from the aforesaid judgments of the Hon'ble Supreme Court in *National Insurance Company Ltd (Supra)* as well as *Dhanraj (Supra)*. The learned Motor Accidents Claims Tribunal has rightly concluded that the deceased, being himself the owner as well as the driver of the vehicle in question, his legal heirs cannot maintain the claim petition.

22. Therefore, the determination of the learned Motor Accidents Claims Tribunal is as per law and does not warrant any interference.

23. Accordingly, the Appeal from Order lacks merit



and is hereby dismissed.

24. The original records shall be transmitted to the Tribunal concerned.

25. Pending application, if any, stands disposed of accordingly.

(Siddhartha Sah, J.)

14.08.2026

Shiv/