

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 25 of 2025

The New India Assurance Company Appellant

Versus

Pooja and others Respondents

Present:-

Mr. D.C.S. Rawat, Advocate for the appellant.
Mr. Abhishek Rawat, Advocate, holding brief of Mr. M.C. Upadhyay, Advocate for the respondent nos. 1 and 2.
Mr. Pramod Bailwal, Advocate for the respondent no.6.
Mr. Anil Kumar, respondent no.3 present in person through video conferencing.
Mr. Kuldeep Kohli, respondent no.4 present in person through video conferencing.

Hon'ble Ravindra Maithani, J. (Oral)

Instant appeal is preferred against the order dated 12.12.2024, passed in MACP No. 07 of 2023, Smt. Pooja and another Vs. Sri Anil Kumar and others ("the claim petition") by the MACT/District Judge, Tehri Garhwal. By it, the claim petition seeking compensation filed by the respondent nos. 1 and 2, the claimants has been allowed and they have been awarded Rs.18,47,860/- compensation alongwith interest.

2. Heard learned counsel for the parties and perused the record.

3. The claimants filed the claim petition on the ground that on 21.10.2022 at 12:00 in the noon, the respondent no.1/claimant Smt. Pooja with her husband deceased Ravindra was riding on a motorcycle bearing Registration No. UK-07 BY 2944 ("the motorcycle"), when they reached Chamba-Mussorrie motor road at Dhangdhar, the driver of the truck bearing Registration No.

UK-07 CB-2424 (“the truck”), was rash and negligent and hit them, due to which the respondent no.1/claimant Smt. Pooja sustained certain injuries and the deceased succumbed to injuries. According to the claimant, the deceased was 28 years of age at the time of incident. He was working as a Cook in a hotel and was getting Rs. 31,000/- per month salary. The respondent no.2/claimant Km. Priyanshi is daughter of the deceased. A claim of Rs.73,50,000/- was made.

4. The respondent no.3, the driver of the Truck did file his objections. According to him, he was not rash and negligent in driving the truck. The motorcycle, in fact, hit the parapet, which is the cause of accident.

5. The respondent no.4/the owner of the truck also filed his objections. According to him, the driver was experienced and he was careful in driving the vehicle. The accident took place due to rash and negligent riding by the rider of the motorcycle. It has also been the claim of the respondent no.4/the owner of the truck that the vehicle has all the valid documents. The claim of the respondent no.4/the owner of the truck was that neither injury report nor post mortem report has been filed so as to reveal that the cause of the death was accident; no documents with regard to the age and occupation of the deceased was filed. It has also been the case of the respondent no.4/the owner of the truck that if there was any accident it was due to the fault of the deceased. The truck driver has no role in it. The validity of documents has also been questioned.

6. On behalf of the respondent no.4 through video conferencing, a person introduced himself as Kuldeep Kohli and argued that the truck has all the valid documents.

7. The respondent no.5/the owner of the motorcycle did not choose to file any objections.

8. There were some formal parties also. They were respondent nos. 7 and 8 in the claim petition. They have supported the claim of the claimants.

9. Based on the pleadings of the parties, on 24.07.2023, the following questions of law were framed:-

- (i) Whether on 21.10.2022 at about 12:00 noon at Dhangdhar of Chamba-Mussoorie motor road, under Police Station Chamba, District Tehri Garhwal, the driver of Vehicle No. UK-07 CB - 2424 by driving the vehicle rashly and negligently hit the motorcycle No. UK-07 BY-2944 of the deceased Ravindra, due to which the deceased sustained injuries and consequently he died? If yes, then its effect?
- (ii) Whether at the time of accident the registered owner of Vehicle No. UK-07 CB -2424 was having valid registration certificate, fitness certificate, permit and insurance documents? If not, then its effect?
- (iii) Whether at the time of accident, the driver of Vehicle No. UK-07 CB -2424 was not having valid

driving license for driving the vehicle? If not, then its effect?

- (iv) Compensation, if any, which the claimants are entitled to? If yes, then to what extent and from which party?

10. Parties filed documents and let evidence in the claim petition. After hearing the parties, the Tribunal on issue no.1 opined that the accident took place due to rash and negligent driving of the truck. On issue nos. 2 and 3, the Tribunal held that the vehicles have all the valid documents. Accordingly, the compensation was awarded.

11. Learned counsel for the appellant submits that the driver of the truck did not have any valid driving license. It was a transport vehicle, but the driving license of the driver did not have that endorsement. He would submit that, initially, this ground was taken by the appellant, but according to him, this ground is no more available to the appellant now, in view of the law laid down by the Hon'ble Supreme Court in the case of Bajaj Alliance General Insurance Company Limited Vs. Rambha Devi and others, (2025) 3 SCC 95.

12. Learned counsel for the respondents/claimants submits that it was a transport vehicle of which the un-laden weight was less than 7,500 kilograms, in view of the law as laid down in the case of Bajaj Alliance General Insurance Company Limited (*supra*). Even if, such endorsement is not made in the driving license, it does not invalidate the license.

13. Light Motor Vehicle is defined under Section 2 (21) of the Motor Vehicles Act, 1988. It reads as follows:-

“2. Definitions.—In this Act, unless the context otherwise requires,—

- (1).....
- (2).....
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(21) “light motor vehicle” means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 7500 kilograms;”

14. In the case of Bajaj Alliance General Insurance Company Limited (*supra*), the Hon’ble Supreme Court has held that **“a driver holding a licence for light motor vehicle with a gross vehicle weight under 7500 kg, is permitted to operate a “transport vehicle” without needing additional authorisation”**.

In para 181.1 the Court held as follows:-

“181.1. A driver holding a licence for light motor vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7500 kg, is permitted to operate a “transport vehicle” without needing additional authorisation under Section 10(2)(e) of the MV Act specifically for the “transport vehicle” class. For licensing purposes, LMVs and transport vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.”

15. The only ground taken by the appellant/Insurance Company was that the driver of the truck did not have additional authorisation of driving the transport vehicle, but in view of the law laid down by the Hon’ble Supreme Court in the case of Bajaj

Alliance General Insurance Company Limited (*supra*) such additional authorisation is not required.

16. Having considered, this Court is of the view that there is no reason to make any interference with the impugned judgment and order. Accordingly, the appeal deserves to be dismissed.

17. The appeal is dismissed.

(Ravindra Maithani, J.)
08.05.2026

Jitendra