



HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No.577 of 2011

18 August, 2026

The New India Assurance Company Limited

--Appellant

Versus

Smt. Asha & others

--Respondents

Presence:-

Mr. V.K. Kohli, learned Senior Advocate assisted by Mr. Kanti Ram Sharma, learned counsel holding brief of Mr. I.P. Kohli, learned counsel for the appellant.

None present for the respondents.

Hon'ble Pankaj Purohit, J.

This appeal from order is directed against the judgment and award dated 05.10.2011 passed by learned MACT/Additional District Judge/FTC-1st Haldwani, District Nainital in MAC Case No.221/2007, *Smt. Asha & others vs. The New India Assurance Company Limited & others.*

2. The present case arises out of a motor vehicle accident which occurred on 26.06.2007 at about 8:00 p.m. near the L.M.L. Showroom, Rampur Road, Haldwani. On the said date, deceased Chandan Singh was travelling on motorcycle No.U.A.04-C-5763 along with his wife, Smt. Asha, when Truck No. H.R.38-K-6376, being driven by its driver allegedly in a rash and negligent manner, suddenly applied brakes and moved towards the left side of the road, as a result whereof the motorcycle collided with the truck. Chandan Singh sustained serious injuries and was taken for treatment,



but subsequently succumbed to his injuries on 01.10.2007. His wife and two minor daughters thereafter instituted a claim petition under Section 166 of the Motor Vehicles Act, pleading that the deceased was working as a Manager at Mahakali Stone Crusher, Golaapar, Haldwani, and was earning Rs.8,000/- per month. The learned Tribunal, upon consideration of the evidence, awarded compensation of Rs.10,62,000/- alongwith interest @ 7% per annum from the date of filing of claim petition till actual payment is made, which has been challenged by the appellant-Insurance Company.

3. The appellant-Insurance Company contested the claim petition, denying the alleged rash and negligent driving of the offending vehicle. It was pleaded that the accident occurred due to the negligence of the deceased himself, who had collided with the truck from behind. Though, insurance was accepted.

4. The appellant further disputed the income of the deceased and contended that the salary certificate relied upon by the claimants was not duly proved. On these grounds, the appellant disputed its liability as well as the quantum of compensation awarded by the Tribunal.

5. The claimants denied the allegations of the appellant and pleaded that the accident occurred solely due to the rash and negligent driving of the truck driver. It was further pleaded that the deceased was employed as a Manager at Mahakali Stone Crusher and was earning Rs. 8,000/- per month. The claimants accordingly supported the compensation awarded by the Tribunal and maintained that the appellant-Insurance Company was liable to satisfy the award.



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

- 1. Whether on 26.06.2007 at about 8:00 p.m., when deceased Chandan Singh was going along with his wife on motorcycle No. U.A.04-C-5763 near L.M.L. Showroom, Rampur Road, Haldwani, truck No. H.R.38-K-6376, being driven by its driver rashly and negligently, hit the motorcycle, as a result whereof Chandan Singh sustained serious injuries and subsequently died during treatment?*
- 2. Whether at the time of the aforesaid accident all the documents of the vehicle in question were valid and effective and its driver was holding a valid driving licence?*
- 3. Whether the claimants are entitled to receive any compensation? If so, to what amount and from whom?*

7. While deciding issue no.1 the learned Tribunal, on appreciation of the testimony of the claimant and the other evidence on record, held that the accident occurred due to rash and negligent driving of the driver of offending truck. Accordingly, Issue No. 1 was decided in favour of the claimants and against the appellant-Insurance Company.

8. While deciding issue no.2 the learned Tribunal, upon examining the documents relating to the offending vehicle and the driving licence of its driver, found them to be valid on the date of the accident. Accordingly, no breach of the insurance policy was established and the issue was decided in favour of the claimants.

9. While deciding issue no.3 the learned Tribunal held that the claimants were entitled to compensation on account of the death of Chandan Singh. Assessing his monthly income at Rs.8,000/-, applying the permissible



deduction and multiplier, and adding the amounts under the conventional heads, the Tribunal determined the total compensation at Rs.10,62,000/-, payable by the appellant-Insurance Company.

10. Having heard learned counsel for the parties and upon perusal of the impugned judgment and award as well as the material available on record, this Court finds that the present appeal does not warrant interference. The finding of the learned Tribunal regarding rash and negligent driving is based upon the evidence available on record. The mere fact that the motorcycle came into contact with the rear portion of the truck does not, by itself, establish negligence on the part of the deceased. The appellant has failed to demonstrate any perversity in the said finding. Likewise, the Tribunal, upon consideration of the relevant documents, found the driving licence of the driver and the documents of the offending vehicle to be valid on the date of the accident. No material has been brought before this Court to warrant interference with the said finding.

11. The principal challenge is to the assessment of income of the deceased at Rs.8,000/- per month. The Tribunal has not assessed the income merely on the basis of an unsupported assertion. The evidence on record establishes that the deceased was employed as a Manager at Mahakali Stone Crusher, Golapar, Haldwani, and the claimants had also produced the salary certificate in support of the income pleaded by them. The oral evidence regarding his employment and earnings has also been considered by the Tribunal. Merely because the author of the salary certificate was not examined, the entire evidence relating to the deceased's employment



and income cannot be discarded, particularly when the Tribunal upon appreciation of the evidence as a whole, found the income of Rs. 8,000/- per month to be established.

12. The contention of the appellant that the deceased's income ought to have been assessed on the basis of notional income also cannot be accepted. Notional income is resorted to where the actual income cannot reasonably be established. In the present case, the Tribunal had before it cogent and proved evidence regarding the deceased's employment, nature of work and salary. The assessment of Rs. 8,000/- per month based on salary certificate proved by P.W.2-Ramesh Chandra Bahuguna, therefore, cannot be said to be arbitrary or based on conjecture.

13. Consequently, the annual income of the deceased was rightly taken at Rs.96,000/-. After making the permissible 1/3rd deduction towards personal expenses and applying the appropriate multiplier of 16, the Tribunal assessed the loss of dependency at Rs.10,24,000/-. The amounts awarded under the other heads, including funeral expenses, loss of estate, loss of consortium and medical expenses, were also based upon the material available on record. The total compensation of Rs.10,62,000/- cannot, therefore, be said to be excessive or contrary to the settled principles governing determination of just compensation. The appellant has failed to demonstrate any error in the assessment of income or computation of compensation which would warrant interference under Section 173 of the Motor Vehicles Act. The compensation awarded by the learned Tribunal is, therefore, found to be just, fair and



reasonable.

14. Accordingly, the appeal being devoid of merit is dismissed. The judgment and award dated 05.10.2011 passed by the learned Motor Accident Claims Tribunal/Additional District Judge, FTC-1st, Haldwani, District Nainital in MAC Case No. 221 of 2007, is hereby affirmed. 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 award had already been deposited by the appellant before MACT and is invested in FDR as per order of this Court dated 03.01.2012, the Tribunal, in that event, is directed to release entire amount with interest accrued thereon upto date, in favour of the respondents/claimants, within one month from today.

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

(Pankaj Purohit, J.)
18.08.2026

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