

# **HIGH COURT OF UTTARAKHAND AT NAINITAL**

## **Appeal From Order No. 30 of 2026**

Oriental Insurance Company Ltd.

.....Appellant

Versus

Smt. Meena Devi and others

.....Respondents

Present:-

Mr. Deepak Rawat, Advocate for the appellant.

Mr. Sachin Panwar, Advocate for the respondent no.1.

Mr. M.S. Bisht, Advocate for the respondent no.3.

### **Hon'ble Ravindra Maithani, J. (Oral)**

Instant appeal is preferred against the award dated 23.09.2025, passed in Motor Accident Claim Petition No.18 of 2023, Smt. Meena Devi and another Vs. Rahees Khan and others ("the claim petition") by the Motor Accident Claims Tribunal/District Judge, Champawat. By it, the claim petition under Section 166 of the Motor Vehicles Act, 1988 filed by the respondent nos. 1 and 2 ("the claimants") has been allowed and they have been awarded compensation of Rs.18,69,496/-

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

3. The claimants filed the claim petition on the ground that on 04.06.2018, the deceased Bobby Prakash was moving in a car bearing Registration No. UK 03TA-1089 ("the car") from Tanakpur to Banbasa alongwith his friend Suraj Goswami when at about 5:00 in the morning, a truck bearing Registration No. UK03CA-0553 ("the truck") driven in a rash and negligent manner hit the car. The deceased Bobby Prakash died in the accident. He was son of the claimant Smt. Meena Devi and brother of claimant Akshay Kumar.

4. According to the claim petition, the deceased was a taxi driver, who was earning Rs.20,000/- per month. Objections were filed in the claim petition. Based on the pleadings, on 27.07.2024 issues were framed. The parties led their evidence. The Tribunal held that the accident was result of the rash and negligent driving of the truck driver. The Tribunal further held that the truck had all the valid documents at the time of the accident. Thereafter, the Tribunal calculated the compensation as follows:-

| S.No. | Particulars                                                                                                                                                                     | Amount                                   |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| 1.    | Income of deceased                                                                                                                                                              | Rs.8,331/- (Notional)                    |
| 2.    | 1/3 deduction towards personal expenses                                                                                                                                         | Rs.8,331/- - 2,777/-<br>= Rs.5,554/-     |
| 3.    | Addition of future prospects 50%, as deceased was aged less than 30 years, as laid down by the Hon'ble Supreme Court in "Meena Pawaia vs. Ashraf Ali", 2021 SCC Online SC 1083. | Rs.5,554/- + 2,777/-<br>= Rs.8,331/-     |
| 4.    | Annual Income                                                                                                                                                                   | Rs. 8,331/- x 12 =<br>Rs.99,972/-        |
| 5.    | Multiplier of 18, as deceased was aged less than 25 years                                                                                                                       | Rs.99,972/- x 18 =<br>Rs.17,99,496/- (A) |
| 6.    | Towards loss of consortium                                                                                                                                                      | Rs.40,000/- (B)                          |
| 7.    | Towards love & affections                                                                                                                                                       | Rs.15,000/- (C)                          |
| 8.    | Expenses towards last rites                                                                                                                                                     | Rs.15,000/- (D)                          |
|       | <b>Total (A+B+C+D)</b>                                                                                                                                                          | Rs.18,69,496/-                           |
|       | (Rs. Eighteen lacs, Sixty Nine thousands, Four hundred Ninety Six only)                                                                                                         |                                          |

4. Learned counsel for the appellant challenges the computation of the compensation on two grounds. According to him, admittedly, the deceased Bobby Prakash was a bachelor of 24

years. Therefore, in view of the law, as laid down by the Hon'ble Supreme Court in the case of Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 Supreme Court Cases 121, 50% of the income should be deducted as personal and living expenses. In addition to it, it is argued that at SL No. 3 the future prospects have been wrongly added as 50%. It should have been 40%. He would refer to the judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi and others, (2017) 16 SCC 680 particularly para 59.4, wherein the Court held that **“in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years.”** He submits that in the case of Meena Pawaia and others Vs. Ashraf Ali and others, (2021) 17 SCC 148, it has been reiterated. But, it has been wrongly interpreted by the Tribunal in the impugned judgment.

5. Learned counsel for the claimant Smt. Meena Devi accepts the argument as advanced on behalf of the appellant.

6. Service has been sufficient on the claimant Akshay Kumar, but he is not present.

7. Learned counsel for the respondent no.3 does not dispute the averments as made by learned counsel for the appellant.

8. Respondent no.4 has also been served, but he has not appeared.

9. In view of the judgment in the case of Sarla Verma (*supra*), in the case of bachelor, the deduction should be 1/2

towards personal expenses. In case of self employed and fixed salaried person, the future prospects should be added at the rate of 40%, in view of the law laid down by the Hon’ble Supreme Court in the case of Pranay Sethi as well as Meena Pawaia (*supra*).

10. The respondent no.1 is mother of the deceased and respondent no.2 is brother of the deceased. In view of the law as laid down by the Hon’ble Supreme Court in the case of Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130, they both are entitled to Rs.40,000/- each under the head of loss of consortium.

11. In the case of United India Insurance Company Limited vs. Satinder Kaur alias Satwinder Kaur and others, (2021) 11 SCC 780, the Hon’ble Supreme Court has held that “loss of love and affection is subsumed under the head of “loss of consortium”. Therefore, in the instant case, the respondent nos. 1 and 2 shall be entitled to compensation under the head of “loss of consortium” and they would not be entitled any compensation under the head of “love and affection”.

| S.No. | Particulars                                                                                                                                                                     | Amount                                                       |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| 1.    | Income of deceased                                                                                                                                                              | Rs.8,331/- (Notional)                                        |
| 2.    | 1/2 deduction towards personal expenses                                                                                                                                         | Rs.8,331/2 = Rs.4,165.5/- rounded off to Rs. 4166/-          |
| 3.    | Addition of future prospects 40%, as deceased was aged less than 30 years, as laid down by the Hon’ble Supreme Court in “Meena Pawaia vs. Ashraf Ali”, 2021 SCC Online SC 1083. | Rs.4165.5 x 40 /100 = Rs 1666.2<br>Rounded off to Rs. 1666/- |
| 4.    | Annual Income                                                                                                                                                                   | Rs. 4166 + 1666 x 12 = Rs.69,984/-                           |

|    |                                                                   |                                          |
|----|-------------------------------------------------------------------|------------------------------------------|
| 5. | Multiplier of 18, as deceased was aged less than 25 years         | Rs.69,984/- x 18 =<br>Rs.12,59,712/- (A) |
| 6. | Towards loss of consortium                                        | Rs.40,000 x 2 = Rs.80,000 (B)            |
| 7. | Expenses towards last rites                                       | Rs.15,000/- (C)                          |
| 8. | Loss of estate                                                    | Rs.15,000/- (D)                          |
|    | <b>Total (A+B+C+D)</b>                                            | Rs.13,69,712/-                           |
|    | (Rs. Thirteen Lakh Sixty Nine Thousand Seven Hundred Twelve only) |                                          |

12. Thus, in view of the calculation as above, the respondents/claimants are entitled to get the compensation of Rs. 13,69,712/-.

13. The appeal is partly allowed.

14. The impugned judgment and order dated 23.09.2025, passed by the Tribunal is modified to the extent as indicated above.

(Ravindra Maithani, J.)  
14.05.2026

Jitendra