

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL****Appeal against Order No. 69 of 2020**

National Insurance Company Limited

..... Appellant

Vs.

Smt. Priti Rastogi and Others

..... Respondents

Present:

Mr. Deepak Rawat, Advocate for the appellant.

Mr. D.K. Tyagi and Mr. Brahm Devi, Advocates for the respondent nos. 1 to 4  
("the claimant")**JUDGMENT****Hon'ble Ravindra Maithani, J. (Oral)**

The instant appeal has been preferred against judgment and order dated 28.11.2019, passed in MACP No.254 of 2017, Priti Rastogi and others v. Jogender Singh and others ("the claim petition"), by the Motor Accident Claims Tribunal/2<sup>nd</sup> Additional District Judge, Udham Singh Nagar ("the Tribunal"). By it, the appellant has been directed to pay total Rs. 12,42,506/- as compensation to the respondent nos.1 to 4, the claimants.

2. It has been the claim of the claimants that the deceased Vinod Rastogi ("the deceased"), who was the husband of the respondent no.1, Priti Rastogi, father of the respondent nos. 2 and 3, and the son of respondent no.4, was returning to his house on 01.04.2016, when at 04:30 p.m. in front of Kodhi Mandir, Kichha, District Udham Singh Nagar, a swift car, bearing Registration No. UK18A-0618 ("the car"), which was being driven in a rash and negligent manner, hit the deceased, due to which the deceased sustained injuries, and subsequently, he died. It has been the case of the claimants that the deceased was a goldsmith and was earning Rs. 15,000/- per month.

3. The appellant did file his objections in the claim petition and raised multiple objections with regard to the policy, the validity of the documents, etc. One of the objections that has been taken by the appellant in Para No.22 of their objections is that the deceased all of a sudden came and tried to cross the road without any indication, and dashed in front of the car, according to the FIR.

4. Based on the pleadings of the parties, the Tribunal framed three issues.

5. In evidence, on behalf of the claimants, three witnesses, namely, PW1, Priti Rastogi, the wife of the deceased, PW2, Anand Swaroop Sharma, and PW3, Dr. R.V. Singh, were examined.

6. The appellant did not adduce any evidence either oral or documentary.

6.

7. On issue no.1, the Tribunal held that the accident took place due to rash and negligent driving of the car, due to which the deceased sustained injuries and subsequently he died.

8. On issue no.2, which was with regard to the validity of the documents pertaining to the car, it was held that the car had all the valid documents at the time of accident, including the driving license.

9. Issue no.3 is with regard to compensation, and after computing the income, etc., the Tribunal awarded total Rs. 12,42,506/-, as compensation.

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

11. Learned counsel for the appellant has raised two points. Firstly, according to him, the accident took place on 01.04.2016. The deceased remained admitted in hospital till

24.05.2016, but he died on 10.07.2017; it has not been established that the cause of death was the accident; there is no proximity between the death and accident. Hence, the claim petition should not have been allowed. Secondly, it is argued that for medical expenses, Rs. 5,24,506/- have been awarded, but the bills have not been proved.

12. On the other hand, learned counsel for the claimants submits that after the accident, the deceased was admitted in hospital, where he remained admitted till 24.05.2016. Thereafter, he was at home under treatment, and continuously taking medicines from the doctor. It is argued that PW3, Dr. R.V. Singh, has admitted and deposed about it. Therefore, it is argued that though the death took place after a long from the date of accident, but during that period, the deceased was on bed. He was taking medicines, and, subsequently, he died. Therefore, it is argued that the Tribunal has rightly concluded that the deceased died due to the injuries, which he sustained in the accident.

13. Insofar as the medical bills are concerned, it is argued that PW3, Dr. R.V. Singh, has proved those bills. Therefore, the arguments, as raised by learned counsel for the appellant, have less merit for acceptance.

14. PW1, Smt. Priti Rastogi, is the wife of the deceased. She has stated that in the accident, the deceased sustained grievous injuries. His skull was operated. He remained admitted in hospital for a long. The Doctor had told that it could take long time for the deceased to recover, due to injuries on the skull. Therefore, due to paucity of funds, this witness, who happens to be the wife of the deceased, took her husband back at home. According to PW1, Priti Rastogi, the deceased, after discharge from the hospital, was not well. He was not able to understand. He could not eat. He could not walk. All the time, he

was on bed. He had undergone physiotherapy and had taken medicines. He had big wounds in his body due to long lying in the bed, and, subsequently, he died. PW1, Priti Rastogi, has been cross-examined extensively. She has stated about the bills of medicines, and has also said that her husband died due to the injuries sustained in the accident.

15. PW2, Anand Swaroop Sharma, is the witness of the accident. He has stated about it.

16. PW3, Dr. R.V. Singh, is the doctor. He had treated upon the deceased. According to him, the deceased was admitted in hospital on 01.04.2016, and he remained hospitalised till 24.05.2016. The deceased had grievous injuries on his skull. He was operated upon. Tracheotomy was also done. He was given physiotherapy also. This witness has also stated that the deceased was not able to walk. All the time he was lying on the bed. After discharge also, till 30.06.2017, the family members of the deceased were taking medicines on prescriptions.

17. The statement of PW3, Dr. R.V. Singh, in fact, proves that the deceased had undergone a lot of trauma after the accident. He was hit on the head. He had to undergo multiple surgeries and physiotherapy.

18. PW1, Priti Rastogi, the wife of the deceased, has even stated that she could not continue admission of her husband in hospital, as she was short of funds. PW3, Dr. R.V. Singh, has categorically stated that till 30.06.2017, the deceased was taking medicines on prescription from the doctor. There is no evidence adduced by the appellant to prove otherwise.

19. Therefore, this Court is of the view that, in fact, it has been proved by the claimants that the deceased, after accident, sustained grievous injuries. He had undergone surgeries, physiotherapy, etc., and after a long, he died on

10.07.2017, due to the injuries sustained in the accident. The Tribunal has rightly concluded on this aspect, and it does not need any interference.

20. Insofar as the medical bills are concerned, PW3, Dr. R.V. Singh, has proved those bills, and accordingly, the claim has been awarded. Therefore, the argument made on this aspect also has less merit for acceptance.

21. In view of the foregoing discussion, this Court is of the view that there is no reason to make any interference in the impugned judgment and order. Accordingly, the appeal deserves to be dismissed.

22. The appeal is dismissed.

23. PW4, Ram Prakash Rastogi, the father of the deceased, has also been awarded Rs. 2 Lakhs as compensation by the Tribunal. Since he has died now, therefore, this amount shall be given to the respondent no.1, Smt. Priti Rastogi.

24. Let the statutory deposit made by the appellant be remitted to the concerned Tribunal.

**(Ravindra Maithani, J.)**  
06.08.2026