

Reportable
Judgment reserved on: 17.12.2025
Judgment delivered on: 10.01.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No.201 of 2015

Regional Manager, Uttarakhand Transport Corporation ..Appellant

Versus

Neeraj Upreti & Ors.

..Respondents

With

Cross Appeal No.02 of 2015

Neeraj Upreti and Another

..Appellants

Versus

Regional Manager, Uttarakhand Transport Corporation

and Another

..Respondents

With

Appeal from Order No.202 of 2015

Regional Manager, Uttarakhand Transport Corporation ..Appellant

Versus

Neeraj Upreti & Ors.

..Respondents

With

Cross Appeal No.01 of 2015

Neeraj Upreti and Another

..Appellants

Versus

Regional Manager, UTC and Another

..Respondents

Presence:

Mr. N.S. Pundir, learned counsel for appellant-Corporation.

Mr. Zafar Siddique, learned counsel for respondents-claimants.

Hon'ble Pankaj Purohit, J. (Per)

Since these appeals are arising out of a common accident and common question of law and facts are involved, hence, these are taken up together and being decided by this common judgment.

2. Appeal No.201 of 2015 and Cross Appeal No.02 of 2015 have been preferred by appellant(s), under Section 173 of the Motor Vehicles Act, 1988, (hereinafter to be referred to as 'the Act') assailing judgment and award dated 10.02.2015 passed by learned Motor Accident Claims Tribunal/1st Additional District Judge, Nainital, in M.A.C.P. No.141 of 2013 *Neeraj Upreti and Another Vs. Uttarakhand Transport Corporation and Another*, whereby, learned Tribunal awarded compensation of Rs. 26,90,000

with interest @8% per annum. Appeal No.202 of 2015 and Cross Appeal No.01 of 2015 have been preferred by appellant(s), under Section 173 of the Motor Vehicles Act, 1988, (hereinafter to be referred to as 'the Act') assailing judgment and award dated 10.02.2015 passed by learned Motor Accident Claims Tribunal/1st Additional District Judge, Nainital, in M.A.C.P. No.140 of 2013 *Neeraj Upreti and Another Vs. Uttarakhand Transport Corporation and Another*, whereby, learned Tribunal awarded compensation of Rs.4,55,600/- with the same rate of interest.

3. Brief facts of the case are that on 17.06.2013 at about 8:30 a.m., deceased was travelling as a passenger in bus bearing Registration No.UK-07-PA/1440 of appellant-Corporation from Delhi to Gangolihat. When the bus reached near village Dhaulchina, Kasar Bend, District Almora, a tree had fallen on the road, due to which, it was stopped by the driver. It was further submitted that driver, conductor and some passengers got down from the bus to remove tree. During this time, suddenly a landslide occurred from the hill above, causing bus to be pushed and dragged off the road. As a result, bus fell down the slope along with passengers inside it, causing fatal injuries to Shri Hansa Datt Upreti and his wife Smt Lalita Upreti, who died on the spot. The deceased-Shri Hansa Datt Upreti was stated to be 52 years of age, healthy, and employed with the Intelligence Bureau (Ministry of Home Affairs), earning a monthly salary of ₹ 34,402/-. The respondents-claimants, being dependent sons of the deceased, claimed compensation of ₹ 70,00,000/- along with interest. The deceased-Smt Lalita Upreti was stated to be 48 years of age, healthy and it was alleged that she was earning around ₹10,000 per month by running a boutique. The respondents-claimants being her son, claimed a compensation of ₹ 46,50,000.

4. The respondents-claimants pleaded that it was due to negligence of bus driver that such an unfortunate accident took place. It was alleged that the accident occurred due to negligence of bus driver in parking the vehicle at an unsafe place despite adverse weather conditions. They pleaded that had the driver been more careful in assessing the situation and parked the bus at a safer distance then this unfortunate incident would not have taken place and both their parents would have been alive. They further submitted that they were completely dependent on their deceased father and appellant-Corporation should be made liable to pay the compensation for the loss caused to them.

5. The appellant-Corporation filed its written statement denying the allegations made in claim petition. It was pleaded that the accident in-question did not occur due to any negligence, rashness or default on the part of Corporation, its officers or the driver of bus. According to appellant-Corporation, the incident was result of a sudden natural calamity, namely a landslide and falling of trees owing to adverse weather conditions in a hilly terrain, which was wholly beyond human control and could not have been anticipated or prevented by the exercise of reasonable care. Appellant-Corporation also pleaded that its buses are exempted from insurance coverage and that, on humanitarian grounds, an amount of ₹10,000/- had already been paid to respondents-claimants. Additionally, it was asserted that the local District Administration had paid ₹5,00,000/- to the respondents-claimants as disaster relief. It was specifically pleaded that such payments were unrelated to any statutory liability under the Act and must be adjusted or taken into account while determining compensation. On these grounds, dismissal of the claim petition was sought.

6. Driver of bus (Opposite party No.2 in claim petition), filed separate written statement supporting the stand taken by appellant-Corporation. He categorically denied that the accident occurred due to any negligence or lack of care on his part. It was pleaded that bus was being driven at a normal speed and with due caution, keeping in view the road and weather conditions prevailing at the relevant time. It was further stated that when a tree suddenly fell on the road, driver stopped the bus at an appropriate place to avoid danger to the passengers. He, along with conductor and some passengers, came out of bus to remove obstruction so that journey could be resumed safely. However, during this process, a sudden landslide occurred from the hill, causing rocks and debris to strike the bus and push it into the gorge. Driver asserted that the incident was entirely sudden and unavoidable. He specifically pleaded that the accident was caused solely due to natural forces and not due to any act or omission on his part. He further stated that he took all reasonable precautions expected of a prudent driver in the given circumstances. On these averments, Driver of bus prayed that the claim petition be dismissed as against him.

7. On the basis of pleadings of parties, following issues were framed by the Tribunal for determination in M.A.C.P. No.141 of 2013:

1. *Whether on 17.06.2013, when the deceased Shri Hansa Datt Upeti was travelling in bus no. UK-07 PA-1440 from Delhi to Gangolihat, and when the bus reached near village Dhaulchina, Kasar Bend at about 8:30 a.m., due to a tree having fallen on the road and while the driver had stopped the bus and got down along with the conductor and some passengers to remove the tree, a landslide occurred from the hill causing the bus to be pushed off the road, resulting in the death of Shri Hansa Datt Upeti at the spot?*
2. *Whether the payment of ₹10,000/- by the Uttarakhand Transport Corporation and ₹5,00,000/- by the local district administration as humanitarian and disaster relief affects the claim for compensation, and if so, to what effect?*
3. *Whether the claimants are entitled to compensation, and if so, how much and from whom?*

8. On the basis of pleadings of the parties, following issues were framed by learned Tribunal for determination in M.A.C.P. No.140 of 2013:

1. Whether on 17.06.2013, when the deceased Smt. Lalita Upreti was travelling in Bus No. UK-07 PA-1440 from Delhi to Gangolihat, and when the bus reached near Dhaulchina Kasar Band, a tree fell on the road due to which the driver stopped the bus and came out along with the conductor and some passengers to remove the tree, and during that process a landslide occurred from the hill causing stones to strike the bus and push it off the road into a gorge, resulting in the death of Smt. Lalita Upreti at the spot?
2. Whether in relation to the death of Smt. Lalita Upreti, the claimants have already been paid ₹10,000/- by Uttarakhand Transport Corporation on humanitarian grounds and ₹5,00,000/- by the local District Administration as disaster relief, as pleaded by the respondents, if so, what is its effect?
3. Whether the claimants are entitled to receive compensation? If so, how much and from whom?

9. While deciding Issue No.1, learned Tribunal took into consideration oral evidence, post-mortem report, documentary evidence and surrounding circumstances of the accident. Learned Tribunal observed that it stood admitted that the deceased was a *bona fide* passenger in the offending bus and that the death occurred during course of journey. Learned Tribunal rejected the contention that accident did not arise out of the use of motor vehicle. It held that the bus was actively involved in the sequence of events and that the accident occurred when bus was stationed at a vulnerable spot on a hilly road, despite adverse weather conditions. Learned Tribunal further held that passengers were still associated with bus at the time of accident and that the causal link between the use of vehicle and the death of deceased-Shri Hansa Datt Upreti and Smt. Lalita Upreti was clearly established. Accordingly, Issue No.1 was decided in favour of the respondents-claimants.

10. While deciding Issue No.2, learned Tribunal recorded a clear finding that the amounts of ₹10,000/- paid by appellant-Corporation and ₹5,00,000/- paid by the local district administration were *ex gratia* payments in both the appeals, made purely on humanitarian and disaster-relief considerations. Learned Tribunal held that such payments were not made under the Act and did not arise out of statutory liability. It was further observed that compensation payable under the Act is based on settled legal principles and cannot be reduced or nullified merely because the respondents-claimants received assistance under separate administrative or relief schemes.

Accordingly, learned Tribunal held that said payments had no bearing on determination of compensation, and Issue No.2 was decided against the respondents-claimants.

11. While deciding Issue No.3 in M.A.C.P. No.141 of 2013, learned Tribunal first determined the age and income of deceased. From post-mortem report and service records, age of deceased at the time of accident is found to be approximately 52 years. The salary certificate established that deceased was earning ₹34,402/- per month. After statutory deductions, learned Tribunal assessed the net monthly income at ₹30,000/-, i.e., ₹3,60,000/- annually. Since, deceased left behind two dependent sons, 1/3 of the income is deducted towards personal expenses, i.e. ₹1,20,000/-, leaving an annual dependency of ₹2,40,000/-, considering the age of deceased, learned Tribunal applied multiplier of 11, which was found appropriate. Accordingly, loss of dependency was computed as: ₹2,40,000 × 11 = ₹26,40,000/-. In addition thereto, learned Tribunal awarded ₹25,000/- towards loss of love and affection and ₹25,000/- towards funeral expenses. Thus, total calculated compensation was ₹26,90,000/- @ 8% per annum from the date of filing of claim petition till actual payment and liability to pay the compensation was fastened upon appellant-Corporation.

12. While deciding Issue No.3 in M.A.C.P. No.140 of 2013, learned Tribunal assessed the age of deceased as 48 years on the basis of documentary evidence. Her monthly income was assessed at ₹3,900/- per month, making the annual income ₹46,800/-. After deducting 1/3 towards personal expenses, the annual dependency was calculated as ₹31,200/-. Applying a multiplier of 13, learned Tribunal computed loss of dependency as ₹4,05,600/-. In addition, a sum of ₹25,000/- was awarded towards loss of love and affection and ₹25,000/- towards funeral expenses, taking

total compensation to ₹4,55,600/-. Learned Tribunal held appellant-Corporation liable to pay the said amount along with interest @ 8% per annum from the date of filing of claim petition till realization.

13. Furthermore, respondents-claimants have also filed cross-appeals, whereby, respondents-claimants have prayed that compensation awarded vide judgment and order dated 10.02.2015, passed in Motor Accident Claims Case Nos.141 of 2013 and 140 of 2013 respectively, be enhanced to the full extent of the amount originally claimed by them.

14. Having heard learned counsel for the parties at length and having perused the pleadings, evidence and material placed on record, this Court is of the considered view that no interference is warranted with the findings returned by learned Motor Accident Claims Tribunal either on the issue of liability or on the question of quantum of compensation. At the outset, it deserves notice that apart from these appeals preferred by appellant-Corporation, respondents-claimants have also filed cross-appeals seeking enhancement of compensation. All the appeals arise out of the same accident, rest upon common evidence, and involve identical questions of fact and law; hence, they are being decided by this common judgment.

15. From the evidence on record, it stands clearly established that deceased-Shri Hansa Datt Upreti and his wife Smt. Lalita Upreti were travelling as *bona fide* passengers in Bus No.UK-07-PA-1440 on 17.06.2013. When the bus reached near Dhaulchina, Kasar Bend, a tree had already fallen on the road; driver stopped bus at that very spot and along with conductor and some passengers, got down to remove the obstruction. At that moment, a landslide occurred from the adjoining hill; stones struck the bus and pushed it off the road into a gorge, resulting in

the death of passengers on the spot. The site conditions, photographs and witness testimonies unmistakably reveal that the area was a hilly and vulnerable stretch, prone to falling debris and landslides, particularly during the relevant season.

16. Learned Tribunal has rightly held that driver failed to exercise the degree of care expected of a person operating a public transport vehicle on such a terrain. Prudence demanded that bus be halted at a reasonably safe distance from the obstruction, keeping in mind the foreseeable risk of further falling trees or landslides. The decision to stop the bus in close proximity to danger zone materially exposed the passengers to risk and directly contributed to fatal outcome. The accident, therefore, cannot be characterized as an inevitable consequence of natural forces alone.

17. The plea raised on behalf of appellant-Corporation that the incident was an “Act of God” is wholly misconceived. The defense of *vis major* is available only where the event is so extraordinary and unforeseeable that no amount of human care or foresight could have prevented the harm. In the present case, terrain, weather conditions and vulnerability of the stretch were well known. Once human negligence intervenes, the shield of ‘Act of God’ stands diluted and becomes unavailable.

18. Even otherwise, the contention that accident did not arise out of the “use of the motor vehicle” is legally untenable. In the case of ***Kaushnuma Begum v. New India Assurance Co. Ltd.***, reported in **(2001) 2 SCC 9**, Hon’ble Supreme Court has categorically held that jurisdiction of Claims Tribunal is not restricted to deciding claims arising solely out of negligence and that negligence is only one species of the causes of action. Hon’ble Supreme Court further recognized that in appropriate

cases, liability may arise even on the principle of strict liability, provided the accident arises out of the use of a motor vehicle and results in death or bodily injury.

19. The expression “arising out of the use of a motor vehicle” has been given a wide and purposive interpretation by Hon’ble Supreme Court in ***Shivaji Dayanu Patil v. Smt. Vatschala Uttam More, (1991) 3 SCC 530***, wherein, it has been held that the use of a motor vehicle does not cease merely because the vehicle is stationary and that the causal relationship between use of vehicle and accident need not be immediate or direct, so long as a proximate and reasonable nexus exists. The scope of expression “arising out of the use of a motor vehicle” stands conclusively settled by the Hon’ble Supreme Court in ***Shivaji Dayanu Patil v. Smt. Vatschala Uttam More, (1991) 3 SCC 530***. The following observations of Hon’ble Supreme Court are of direct relevance:

“26. These decisions indicate that the word “use”, in the context of motor vehicles, has been construed in a wider sense to include the period when the vehicle is not moving and is stationary, being either parked on the road and when it is not in a position to move due to some breakdown or mechanical defect. Relying on the abovementioned decisions, the appellate bench of the High Court has held that the expression “use of a motor vehicle” in Section 92-A covers accidents which occur both when the vehicle is in motion and when it is stationary. With reference to the facts of the present case the learned Judges have observed that the tanker in question while proceeding along National Highway 4 (i.e. while in use) after colliding with a motor lorry was lying on the side and that it cannot be claimed that after the collision the use of the tanker had ceased only because it was disabled. We are in agreement with the said approach of the High Court. In our opinion, the word “use” has a wider connotation to cover the period when the vehicle is not moving and is stationary and the use of a vehicle does not cease on account of the vehicle having been rendered immobile on account of a breakdown or mechanical defect or accident. In the circumstances, it cannot be said that the petrol tanker was not in the use at the time when it was lying on its side after the collision with the truck.

37. Was the accident involving explosion and fire in the petrol tanker connected with the use of tanker as a motor vehicle? In our view, in the facts and circumstances of the present case, this question must be answered in the affirmative. The High Court has found that the tanker in question was carrying petrol which is a highly combustible and volatile material and after the collision with the other motor vehicle the tanker had fallen on one of its sides on the sloping ground resulting in escape of highly inflammable petrol and that there was grave risk of explosion and fire from the petrol coming out of the tanker. In the light of the aforesaid circumstances the learned Judges of the High Court have rightly concluded that the collision between the tanker and the other vehicle which had occurred earlier and the escape of petrol from the tanker which ultimately resulted in the explosion and fire were not unconnected but related events and merely because there was interval of about four to four and half hours between the said collision and the explosion and fire in the tanker, it cannot be necessarily inferred that there was no causal relation between explosion and fire. In the circumstances, it must be held that the explosion and fire resulting in the injuries which led to the death of Deepak Uttam More was due to an accident arising out of the use of the motor vehicle viz. the petrol tanker No. MKL 7461.”

20. Applying the above principles, it is evident that bus was very much “in use” at the relevant time. It was engaged in passenger transport on a public road, had

halted only temporarily due to an obstruction and presence and positioning of vehicle at the site formed an integral part of the chain of events leading to the fatal accident. The causal connection in the present case is clear, proximate and unbroken.

21. The view taken by Hon'ble Kerala High Court in ***Sharlet Augustine v. K.K. Raveendran*, AIR 1992 Kerala 346**, and by Hon'ble Karnataka High Court in ***Sulochana and others v. KSRTC*, ILR 2003 KAR 4911**, further reinforces the position that consequential events closely connected with the use of a motor vehicle fall squarely within the ambit of compensable accidents under the Act.

22. As regards the quantum of compensation awarded in both claim petitions, this Court has re-examined the computation in the light of the principles laid down in ***Sarla Verma v. DTC*, (2009) 6 SCC 121**, and ***National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680**. Learned Tribunal has correctly assessed the age and income of both deceased persons on the basis of reliable documentary evidence, applied the appropriate multipliers, and made permissible deductions towards personal expenses. The compensation awarded under conventional heads is consistent with the judicial standards prevailing at the time of accident and passing of the award.

23. The compensation awarded in these appeals cannot be said to be either arbitrary or excessive. The awards represent just compensation having due regard to the facts of case, evidence on record and settled principles governing assessment of compensation under the Act.

24. As regards cross-appeals preferred by respondents-claimants seeking enhancement of compensation, this Court finds no merit therein. Learned Tribunal has adopted a correct and structured approach

while determining income, dependency, multiplier and compensation under conventional heads. The computation does not suffer from any error of law, misapplication of multiplier or impermissible deduction warranting interference in appellate jurisdiction.

25. It is well settled that an appellate court does not interfere with the quantum of compensation merely because a higher amount could have been awarded. Unless the compensation is shown to be grossly inadequate, perverse, or based on a fundamentally erroneous principle, interference is unwarranted. The respondents-claimants have failed to demonstrate any such infirmity in the impugned awards.

26. In view of the foregoing discussion, this Court holds that the findings of learned Tribunal on negligence, applicability of the Act, rejection of the plea of 'Act of God', and computation of compensation, are well-reasoned, based on proper appreciation of evidence, and fully consistent with settled legal principles.

27. Accordingly, the appeals filed by appellant-Corporation are dismissed.

28. The cross-appeals filed by respondents-claimants seeking enhancement of compensation are also dismissed. The awards passed by learned Tribunal are affirmed in their entirety. Respondents-claimants shall be entitled to receive the compensation as awarded by learned Tribunal along with interest, in accordance with law, if already not received.

29. Let the T.C.R. be immediately sent back to the learned Trial Court for consignment.

30. Pending application(s), if any, stands disposed of.

(Pankaj Purohit, J.)

10.01.2026

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