

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 87 of 2026

United India Insurance Company

.....Appellant

Versus

Nili Kumari and Others

.....Respondents

Present:-

Mr. Prabhat Pande, Advocate for the appellant

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The instant appeal is preferred against the judgment and award dated 16.01.2026, passed in Motor Accident Claim Petition No. 05 of 2023, Smt. Nili Kumari and another v. M/s Indian Parivahan Logistics and Others (“the claim petition”), by the court of Motor Accident Claim Tribunal/4th Additional District Judge, Haridwar, District Haridwar (“the Tribunal”). By it, the claim petition filed by the respondent nos. 1 and 2, under Sections 140 and 166 of the Motor Vehicles Act, 1988, has been allowed and the appellant has been directed to deposit Rs. 60,51,360/- in the Tribunal, and accordingly, directions were made to disburse the amount amongst the respondent nos. 1 and 2, who are the wife and daughter of late Mr. Vinai Singh (“the deceased”) respectively, as well as to the respondent nos. 5 and 6, who are the mother and father of the deceased.

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

3. According to the claim petition, on 08.05.2023, at 6:00 pm, when the deceased was going to Haridwar in his scooty bearing Registration No.U.K.08.A.K.0654 (“the scooty”), he was hit from behind by a Truck bearing Registration No.U.K. 08.C.B.2457 (“the truck”), being driven in rash and negligent manner by the respondent no.4, its

driver, due to which the deceased sustained injuries. He was referred to hospital, but, on the way, he died.

4. It has been the case in the claim petition that the deceased was 35 years of age and was working in Elite Electricals with a salary of Rs. 30,500/- per month.

5. The appellant did file his objections in the claim petition, and most of the averments were not accepted. The appellant has taken the plea that, in fact, the accident occurred due to rash and negligent act of the deceased. He did not have any license. There are other objections also which were taken by the appellant.

6. The respondent no.3, the owner of the truck, and the respondent no.4, the driver of the truck, did file joint objections. The factum of accident has been admitted, but, according to them, the license of the driver of the truck was valid on the date of incident, and all the documents pertaining to the truck were also valid. Respondent nos. 5 and 6 are, in fact, formal parties. They are the parents of the deceased. They have supported the claim of the respondent nos. 1 and 2, the claimants.

7. Based on the pleadings of the parties, three issues were framed in the claim petition, which are as follows:-

- (i) Whether on 08.05.2023, at about 6:00 pm, while the deceased was going for work, in a scooty bearing Registration No. UK.08.A.K.0654, near Dava Chock, SIDCUL, Haridwar, the driver of the truck bearing Registration No. U.K. 08.CB.2457, while driving it in a rash and negligent manner, hit the deceased from behind, due to which the deceased died?
- (ii) Whether on the date and time of the alleged accident, the owner of the truck bearing Registration No. U.K. 08.C.B.2457 had valid R.C.,

insurance policy, etc, and whether the driver of the truck had valid driving license?

- (iii) Whether the claimants are entitled to any compensation? If so, to what extent and from which of the respondents?

8. By the impugned judgment and award, the Tribunal held that:-

- (a) The deceased died due to rash and negligent driving of the truck, due to which the deceased sustained injuries and died. Issue no.(i) was decided accordingly.
- (b) The truck and its driver had all the valid documents. Issue no.(ii) was decided accordingly.
- (c) The deceased was working with a salary of Rs.29,600/- per month, as shown in the salary certificate of the deceased, and as proved by the PW3, Pradeep Kumar, the accountant of the company. Accordingly, the compensation has been awarded. Issue no.(iii) was decided accordingly.

9. Learned counsel for the appellant raised two points in the appeal. They are as follows:-

- (A) It was a head on collision and the deceased was also negligent in contributing to the accident.
- (B) The monthly salary of the deceased could not exceed Rs. 21,000/- because in his salary slip, ESI number is recorded, and the ESI number is allotted to such employees, whose salary is not more than Rs. 21,000/-. He would refer to the notification dated 22.12.2016, issued by the Government of India, Ministry of Labour and Employment, by which the amendment was

incorporated in the Employees' State Insurance (Central) Rules, 1950 ("the Rules").

10. First and foremost, the part of contributory negligence may be seen. It has been the case in the claim petition that the truck hit the scooty from behind, due to which the deceased died.

11. In his objections filed in the claim petition, the appellant has not taken the plea of contributory negligence. What was stated was that the deceased did not have any driving license at the relevant time.

12. The respondent no.3 is the owner of the truck, and the respondent no.4 was the driver of the truck. They have filed joint objections. But, they have not taken the plea that the respondent no.4 was not negligent in driving the truck, and the accident took place due to contributory negligence of the deceased himself. It is not the pleaded case.

13. In the claim petition, parties have adduced evidence. On behalf of the appellant, there are 3 witnesses, namely, PW1, the claimant Smt. Nili Kumari, the wife of the deceased, PW2, Arshad, the eye witness, and PW3, Pradeep Kumar, the person who has proved the salary slip of the deceased.

14. The appellant or any of the other respondents in the claim petition did not file any oral evidence. Parties have filed documents in their support of their respective claim.

15. Admittedly, the report of the accident was lodged on 10.06.2023, which was FIR No.320 of 2023, under Sections 279 and 304A IPC, against the driver of the truck. In this FIR, after investigation, chargesheet has already been submitted against the respondent no.4, driver of the truck, for offence under Sections 279, 304-A, and 427 IPC.

16. Learned counsel for the appellant has referred to the site plan that was filed along with the chargesheet, which shows that the

accident took place as both the vehicles were coming from the opposite directions. He would refer to the statement of PW2, Arshad, particularly Para 4 of his cross-examination, when he has admitted that the accident was head on collision.

17. This argument may not disturb the finding recorded by the Tribunal for the following reasons:-

- (a) This is not the plea taken either by the driver of the truck or by the appellant/Insurance Company in the claim petition.
- (b) On behalf of the appellant, no evidence has been adduced with regard to the contributory negligence of the deceased, and finally, even if the site plan is to be seen, it shows that the truck had gone beyond its left side and hit the scooty on the wrong side.

18. The accident took place due to negligence of the driver of the truck. It has been so stated by PW2, Arshad, who has been given an eye witness account of it. According to him, the deceased was hit from behind.

19. Chargesheet has already been filed in the matter against the driver of the truck. The driver of the truck has not stated that the accident was as a result of rash and negligent act of the deceased.

20. Insofar as monthly salary of the deceased is concerned, this part has been extensively dealt with in Para 33 and 34 of the impugned judgment of the Tribunal. PW3, Pradeep Kumar has proved the salary slip of the deceased. This witness was the Accountant in the company. He has candidly admitted that the benefit of the Rules is available to such employees, whose salary does not exceed Rs. 21,000/-, and he has also admitted that in the pay slip of the deceased, ESI number is quoted, but he has also stated that the salary

of the deceased was being transferred in his bank account. The Tribunal has rightly held that the appellant has not come up with any document to rebut this statement of PW3, Pradeep Kumar, or the document proved by him that Rs. 29,600/- per month is being remitted in the account of the deceased. And, it was also a right observation that if in violation of the Rules contribution is made, it may not have any adverse impact on the right of the claimants to get compensation in the claim like the present one. Therefore, the finding on this aspect also does not warrant any interference.

21. In view of the forgoing discussion, this Court does not see any reason to interfere with impugned judgment and award. Accordingly, the appeal deserves to be dismissed at the stage of admission itself.

22. The appeal is dismissed *in limine*.

(Ravindra Maithani, J)
23.04.2026

Ravi Bisht