

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 170 of 2026

Rajkumar Phool

.....Appellant

Versus

Smt. Lilawati and Others

.....Respondents

Present:-

Mr. Narendra Bali, Advocate for the appellant.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The instant appeal is preferred against the judgment and award dated 12.02.2026, passed in Motor Accident Claim Petition No. 04 of 2025, Smt. Lilawati and others v. Rajkumar Phool and others ("the claim petition"), by the court of Motor Accident Claims Tribunal/Additional District Judge, Kotdwar, District Mauri Garhwal ("the Tribunal"). By it, the respondent nos. 1 to 4 ("the claimants") have been awarded total Rs. 16,67,949/- compensation to be paid by the appellant and the respondent no.5.

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

3. The claimants did file claim petition on account of the death of Anjali ("the deceased"), who is the daughter of the claimant no.1, Smt. Lilawati and claimant no.4, Harak Raj, and the sister of claimant nos. 2 and 3, Ajay Kumar and Neeraj Kumar, respectively on a motor accident. According to the claimants, on 16.01.2025, in Kotdwar, District Pauri Garhwal, the deceased was proceeding on her scooty bearing Registration No. UK15 D 2725 ("the scooty"). Near Idgah, at about 12:15-12:35 in the noon, a vehicle bearing Registration No. UK 07 BB 8700 ("the vehicle") hit the scooty, due to which the deceased died on the spot. It has been the claim of the claimants that the deceased was working as a Computer Animator, and was getting Rs.25,000/- per month as salary.

4. The appellant and the respondent no.5 filed their objections. The respondent no.6 did not appear in the claim petition. Therefore, the proceedings proceeded *ex parte* against it by the order dated 17.03.2025. The appellant raised various objections. According to him, the accident took place due to negligence of the deceased herself. The respondent no.5, the driver of the vehicle has filed separate objections. He also averred that the accident took place due to negligence of the deceased.

5. Based on the pleadings of the parties, four issues were framed in the claim petition. Parties lead their evidence. After hearing the parties, the Tribunal, by the impugned judgment and order awarded compensation to the claimants. Aggrieved by it, the owner of the vehicle has preferred the appeal.

6. On Issue no.1, the Tribunal decided that the accident took place due to rash and negligent driving of the vehicle being driven by the respondent no.5, due to which the deceased died on the spot.

7. Issue no.2 relates to as to whether the driver of the vehicle had all the valid documents of the vehicle. The Tribunal discussed the material available on record and found that on the date of accident, which is 16.01.2025, the vehicle was not insured, though it was registered in the name of the appellant.

8. Issue no.3 was with regard to the documents of the scooty. They were not produced before the Tribunal. Accordingly, it was decided.

9. Finally, on compensation, after computing the income, etc. the orders have been passed. It is impugned in this appeal.

10. Learned counsel for the appellant submits that the accident took place due to contributory negligence of the deceased, but this fact has not been considered by the Tribunal in the impugned judgment; the deceased was driving the scooty in a manner, which contributed to the negligence.

11. It is the stage of admission of the appeal. In fact, in his objections, the appellant, in the claim petition, has raised this plea that the accident took place due to negligence of the deceased in riding the scooty. Similarly, the respondent no.5, who is the driver of the vehicle, has also taken this plea.

12. In the instant case, the accident between the vehicle and the scooty is admitted. There has been no eye witness examined on behalf of either side. The claimant, Smt. Lilawati, has been examined as PW1. She is not the witness of the incident.

13. The owner of the vehicle, who is the appellant himself has been examined as DW1. He was also not witness of the incident. According to him, on that date, neither he nor his driver, who is the respondent no.5, was driving the vehicle. Some other person was driving the vehicle. But he has not adduced any evidence as to who was driving the vehicle and how did the accident take place.

14. The Tribunal has considered all the aspects of the matter and concluded that the accident took place due to rash and negligent driving of the vehicle by the respondent no.5, the driver of the vehicle.

15. On behalf of the claimants, First Information Report of the incident as well as the post-mortem report, etc. has been filed. It records that on the date of incident itself, an FIR was lodged against the driver of the vehicle that it is he, who, while driving the vehicle in a rash and negligent manner, hit the deceased, due to which she died on the spot.

16. The Court wanted to know from learned counsel for the appellant as to at what stage is the Tribunal case pending and against whom is it pending? He submits that the criminal trial is pending against the respondent no.5/Kapil, the driver of the vehicle, and it is still pending.

17. In the case of Meera Bai and Others v. ICICI Lombard General Insurance Company Ltd. and Another, 2025 SCC OnLine SC 992, the Hon'ble Supreme Court has considered these aspects where eye-witness of an incident is not available, and observed as hereunder:-

“4. As far as examining the eyewitness, such a witness will not be available in all cases. The FIR having been lodged and the charge sheet filed against the owner driver of the offending vehicle, we are of the opinion that there could be no finding that negligence was not established.”

18. The accident is admitted. The appellant, in the claim petition, had pleaded that he or his driver was not driving the vehicle at the time of the incident, but according to the appellant, the accident took place due to rash and negligent act of the deceased herself, but there is no evidence to that effect by the appellant also. Admittedly, the FIR of the accident was lodged, in which chargesheet was filed against the driver of the vehicle, who is the respondent no.5, and as per learned counsel for the appellant himself, now the trial is pending.

19. In view of the foregoing discussion, this Court is of the view that the court below has rightly concluded that the accident took place due to rash and negligent driving of the driver of the vehicle. No other point has been raised. Therefore, this Court is of the view that the finding recorded by the Tribunal is based on the evidence available on record, and it does not warrant any interference. Accordingly, the appeal deserves to be dismissed at the stage of admission itself.

20. The appeal is dismissed *in limine*.

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

(Ravindra Maithani, J)
12.06.2026

Ravi Bisht