

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Appeal From Order No. 283 of 2023**

**13 August, 2026**

The New India Assurance Company Limited

--Appellant

**Versus**

Smt. Kamla Devi and others

--Respondents

Presence:-

Mr. V.K. Kohli, Senior Advocate (through video conferencing) assisted by Mr. Kanti Ram Sharma, Advocate for the appellant.

Mr. Vinod Chandra, Advocate for the respondent nos. 1 & 2.

Mr. Mukesh Singh Rawat, Advocate for the respondent no. 3.

**JUDGMENT**

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

Instant appeal is preferred against the award dated 29.03.2023, passed in Motor Accident Claim Petition No. 27 of 2022, Smt. Kamla Devi and another v. Smt. Mamta Joshi and another, by the Motor Accident Claims Tribunal/1<sup>st</sup> Additional District Judge, Haldwani, District Nainital ("the Tribunal"). By it, the petition filed by the respondent nos. 1 & 2/claimants under Sections 166 of the Motor Vehicles Act, 1988 ("the MV Act") has been allowed and the appellant has been directed to pay Rs. 13,85,613/- as compensation alongwith interest at the rate of 6.5 *per annum* to the respondent nos. 1 & 2/claimants.

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

3. The respondent nos. 1 & 2/claimants filed a claim petition under Sections 166 of the MV Act seeking compensation

on account of the death of Harendra Singh, who happens to be son of the respondent no. 1 and brother of the respondent no. 2. According to the claim petition, on 18.11.2021, the deceased Harendra Singh was riding a motorcycle bearing Registration No. UK 04 AF 5762, when at 02:45 p.m. he was hit by a vehicle bearing Registration No. UK 04 CA 4522 ("the vehicle"). The deceased Harendra Singh sustained serious injuries. He was taken to the hospital, where he was declared dead.

4. Objections were filed by the appellant and the respondent no. 3.

5. On 18.01.2020, based on the pleadings of the parties, the Tribunal framed four issues and the parties led their evidence in support of their claims.

6. On issue nos. 1 and 2, the Tribunal held that the accident took place due to rash and negligent driving of the vehicle, due to which the deceased sustained serious injuries and subsequently he died. The Tribunal also observed that in the accident, the deceased Harendra Singh did not contribute and it is not a case of contributory negligence.

7. On issue no. 3, the Tribunal held that at the time of accident, the vehicle had all the valid documents, including the driving license.

8. Issue no. 4 is with regard to compensation. The Tribunal awarded the compensation as follows:-

| SL. No. | Particulars                                                  | Amount                     |
|---------|--------------------------------------------------------------|----------------------------|
| 1.      | The wages of unskilled worker as monthly income              | Rs. 8,213/-                |
| 2.      | Dearness allowance per month                                 | Rs. 1,000/-                |
| 3.      | Total monthly income<br>(Rs. 8,213 + 1,000)                  | Rs. 9,213/-                |
| 4.      | Annual income                                                | Rs. 9213 x 12 = 1,10,556/- |
| 5.      | 50% deduction towards person expenses                        | Rs. 55,278/-               |
| 6.      | Income after adding future prospect of 40%                   | Rs. 77,389/-               |
| 5.      | Total loss of income after applying the multiplier of 17 (A) | Rs. 13,15,613/-            |
| 6.      | Loss of consortium (B)                                       | Rs. 40,000/-               |
| 7.      | Loss of estate and funeral expenses (C)                      | Rs.30,000/-                |
|         | <b>Total</b> (A+B+C)                                         | Rs. 13,85,613/-            |

9. Learned Senior Counsel for the appellant submits that the appellant raises only one argument in this appeal. He would submit that though the monthly income of the deceased has rightly been calculated based on the wages of unskilled person as Rs. 8,213/-, but, he would submit that dearness allowance of

Rs. 1,000/- per month is purely a guess work, which should not be given.

10. Today, learned Senior Counsel for the appellant has placed for perusal of the Court the notification issued with regard to dearness allowance between 01.10.2021 and 31.03.2022, which is Rs. 880/- per month. This notification is taken on record.

11. Learned counsel for the respondent nos. 1 & 2/claimants admits that the dearness allowance should have been given at the rate of Rs. 880/- per month, instead of Rs. 1,000/- per month.

12. On other heads there are no objections. The only objection is with regard to the compensation that too with regard to the dearness allowance and as stated, it is admitted to the respondent nos. 1 & 2/claimants that the dearness allowance is to be given at the rate of Rs. 880/- per month, instead of Rs. 1,000/- per month.

13. Therefore, this Court is of the view that the respondent nos.1 & 2/claimants are entitled to get dearness allowance at the rate of Rs. 880/- per month, instead of Rs. 1,000/- per month. Accordingly, the computation of compensation comes as follows:-

| SL. No. | Particulars                                     | Amount      |
|---------|-------------------------------------------------|-------------|
| 1.      | The wages of unskilled worker as monthly income | Rs. 8,213/- |

|    |                                                              |                             |
|----|--------------------------------------------------------------|-----------------------------|
| 2. | Dearness allowance per month                                 | Rs. 880/-                   |
| 3. | Total monthly income<br>(Rs. 8,213 + 1,000)                  | Rs. 9,093/-                 |
| 4. | Annual income                                                | Rs. 9,093 x 12 = 1,09,116/- |
| 5. | 50% deduction towards person expenses                        | Rs. 54,558/-                |
| 6. | Income after adding future prospect of 40%                   | Rs. 76,381/-                |
| 5. | Total loss of income after applying the multiplier of 17 (A) | Rs. 12,98,477/-             |
| 6. | Loss of consortium (B)                                       | Rs. 40,000/-                |
| 7. | Loss of estate and funeral expenses (C)                      | Rs.30,000/-                 |
|    | <b>Total</b> (A+B+C)                                         | Rs. 13,68,477/-             |

14. Therefore, this Court is of the view that the respondent nos.1 & 2/claimants are entitled to get compensation of Rs. 13,68,477/-, instead of Rs. 13,85,613/ as awarded by the Tribunal. The respondent nos.1 & 2/claimants shall receive the amount in proportion as directed by the Tribunal. They shall also be entitled to the interest as awarded by the Tribunal.

15. Accordingly, the amount of compensation awarded by

the Tribunal is reduced and the appeal deserves to be partly allowed.

16. The appeal is partly allowed accordingly.

17. Let the statutory amount deposited by the appellant before this Court be also remitted to the Tribunal concerned.

(Ravindra Maithani, J.)  
13.08.2026

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