

UKHC010199272024

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal Against Order No.492 of 2024

The New India Assurance Company Ltd. Appellant

Versus

Prakash Chandra Singh and others Respondents

Present:- Mr. D.C.S. Rawat, Advocate for the appellant.

Mr. Vinod Chandra, Advocate for the respondent nos.1 and 2/claimants.

Ms. Sangeeta Adhikari Patni, Advocate for the respondent no.3.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this appeal is made to the award dated 07.10.2024, passed in Motor Accident Claim Petition No.2 of 2024, Prakash Chandra Singh and another Vs. Kedar Singh and another, by the Motor Accident Claims Tribunal/District Judge, Pithoragarh, by which, the appellant has been directed to pay compensation along with interest @ 7.5% per annum to the respondent no.2 ("the claimant").

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

3. The respondent nos.1 and 2 (the claimants) filed the claim petition under Sections 166 of The Motor Vehicles Act, 1988 claiming compensation on the death of the wife of respondent no.1 (i.e. mother of respondent no.2) in a motor accident. According to the claimants on 27.06.2023, Smt. Yamuna Devi was travelling in a vehicle bearing Registration No.UK06AN 5759 ("the vehicle"), when at 03:50 pm it met with an accident, due to which, she died.

4. The appellant filed objections to the claim petition on multiple grounds including that the supporting documents have not been filed by the respondent no.1 and 2/claimants and the petition deserves to be dismissed. It has also been the case of the appellant that the driver of the vehicle has been at fault as he was plying the vehicle in the restricted area. According to the appellant, they are not liable to pay any compensation.

5. The respondent no.3, the owner of the vehicle also filed objections. According to which the vehicle had all the valid documents and the driver Kedar Singh had valid driving license while he was driving the vehicle.

6. On behalf of the claimants, Prakash Chandra Singh appeared as a witness. On behalf of the appellant DW1 Dheeraj Pandey, Surveyor appeared as a witness. The parties filed documents.

7. After hearing the parties, by the impugned judgment and order, the Tribunal awarded Rs.16,52,219/- compensation to the respondent no.2/minor daughter Km. Himani. The Tribunal observed that, in fact, the respondent no.1/the claimant Prakash Chandra Singh was not dependent on the deceased. Aggrieved by it, the appellant is in appeal.

8. Learned counsel for the appellant submits that the accident took place on a road which was prohibited for four wheelers; a board was placed alongside the road; it was violated by the driver. Hence, the appellant is not liable to pay any amount of compensation. It is also argued that only claimant No.2 Km.

Himani was dependent on the deceased. The deduction to the personal expenses should be one-half and not one-third as done by the Tribunal.

9. Learned counsel for the respondent no.3 submits that there was a valid insurance policy and it was a case of rash and negligent driving of the driver of a vehicle, who also died in the accident. Therefore, the insurance company is liable to pay the compensation amount.

10. Learned counsel for the claimants submits that both the claimants were legal representatives of the deceased. The deduction on the personal expenses has rightly been made.

11. The Tribunal based on the pleadings of the parties has framed three issues. On issue no.1, the Tribunal after extensive discussion held that the driver of the vehicle Khushal Singh was rash and negligent in driving the vehicle on a road which was prohibited for four wheelers by virtue of placing a board on it by PMGSY. The discussion is made from para 12 to 15 of the impugned judgment.

12. It is not the case of the appellant also that it was not a motor road. What is the case is that due to maintenance work the four wheelers were prohibited to run on the road. It is not the case of the appellant that there is violation of any condition of the permit on the route or otherwise any violation of any terms and condition of the insurance policy. Therefore, merely a board was placed by PMGSY prohibiting the plying of four wheelers on the road due to maintenance reason, it cannot be said that it exonerates the

appellant from the liability. In fact, it is a case of negligent driving by the driver. He should not have taken the vehicle on the road which was under maintenance. Therefore, the Tribunal has rightly observed that it was a case of rash and negligent driving and accordingly, rightly held the appellant is responsible to pay the compensation amount.

13. In so far as deduction in personal head is concerned, in the case of Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another, (2009)6 SCC 121, the Hon'ble Supreme Court has held that the deceased is bachelor. The deduction of personal expenses would be one-half. But, in para 30 of the judgment, the Court has said that if the number of dependent family members is 2 to 3, then it would be one-third. In the instant case, the claimants were the legal heirs of the deceased. Though the Tribunal held that the claimant Prakash Chandra Singh was not dependent on the deceased. It is a beneficial legislation. As there is no clause in the case of Sarla Veram (*Supra*), even for a married person, the deduction for personal expenses will be one-half. Accordingly, this Court is of the view that on the finding of personal expenses, no interference is warranted.

14. In view of the foregoing discussion, this Court is of the view that the instant appeal deserves to be dismissed.

15. The appeal is dismissed.

(Ravindra Maithani, J.)
10.07.2026

Sanjay