2025:UHC:9574

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No.109 of 2022

30th October, 2025

The United India Insurance Company Ltd. .....Appellant

Versus

Smt. Rachna and others .....Respondents

Presence:-
Mr. D.C.S. Rawat, learned counsel for the appellant.
None is present for the respondents.

Hon'ble Alok Mahra, J.

This appeal under Section 173 of the Motor Vehicles Act, 1988, has been filed against the judgment and award dated 05.01.2022 passed by the learned Motor Accident Claims Tribunal/IVth Additional District Judge, Haridwar, in Claim Petition No. 40 of 2019, Smt. Rachna vs. Nawab and Others, whereby an award of ₹8,37,340/- along with interest @ 7% per annum was granted as compensation in favour of the claimant.

2. Brief facts of the case are that on 21.11.2018, the claimant and her daughter, Ms. Akanksha, along with relatives, were returning home after attending a feast in car no. UK-07 DV-2134. At about 10:30 p.m., near their bungalow, a truck bearing no. HR-67B-1019, driven rashly and at high speed, suddenly applied brakes and turned towards their car, causing a collision. Ms.

Akanksha sustained grievous injuries and succumbed to her, while others were also injured. FIR No. 437/2018 was registered at P.S. Bahadarabad against the truck driver. The deceased, a young and healthy girl, worked as a tailor earning Rs.10,000 per month, contributing her income to the family. Her father had predeceased her, and her mother has been left in deep shock. Though no monetary compensation can make good the loss, the petitioner seeks an award of Rs.65,50,000 with 12% interest as just compensation..

3. The main contention of learned counsel for the appellant is that the learned Tribunal, despite holding that the vehicle involved in the accident was not insured on the date of the incident, wrongly passed an order of “pay and recover” against the Insurance Company.

4. It is further submitted that since the vehicle in question was being driven without a valid insurance policy on the date of the accident, the liability could not have been fastened upon the Insurance Company, and the owner of the offending vehicle alone should have been made liable to pay the compensation.

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

6. On perusal of the record, it reveals that the learned Tribunal relied upon the judgments of the Hon'ble Supreme Court in Oriental Insurance Co. Ltd. v. Inderjit Kaur, (1998) 1 SCC 371, and New India Assurance Co. Ltd. v. Rula, (2000) 3 SCC 195. The Hon'ble Apex Court in the aforesaid cases held that even if a vehicle is not effectively insured on the date of the accident, the purpose of Chapter XI of the Motor Vehicles Act, 1988, is to ensure that third-party victims do not suffer on account of disputes between the insurer and the insured. The relevant portions from the judgment in Inderjit Kaur (supra) are reproduced hereinbelow:

> *"10. The contract of insurance in respect of motor vehicles has, therefore, to be construed in the light of the above provisions. Section 146(1) contains a prohibition on the use of the motor vehicles without an insurance policy having been taken in accordance with Chapter XI of the Motor Vehicles Act. The manifest object of this provision is to ensure that the third party, who suffers injuries due to the use of the motor vehicle, may be able to get damages from the owner of the vehicle and recoverability of the damages may not depend on the financial condition or solvency of the driver of the vehicle who had caused the injuries.*
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> *11. Thus, any contract of insurance under Chapter XI of the Motor Vehicles Act, 1988 contemplates a third party who is not a signatory or a party to the contract of insurance but is, nevertheless, protected by such contract. As pointed out by this Court in New Asiatic Insurance Co. Ltd. v. Pessumal Dhanamal Aswani [AIR 1964 SC 1736] the rights of the third party to get indemnified can be exercised only against the insurer of the vehicle. It is thus clear that the third party is not concerned and does not come into the picture at all in the matter of payment of premium. Whether the premium has been paid or not is not the concern of the third party who is concerned with the fact that there was a policy issued in respect of the vehicle involved in the accident and it is on the basis of this policy that the claim can be maintained by the third party against the insurer.*

> *12. It was in the background of the above statutory provisions that the provisions of Section 64-VB, upon which reliance has been placed by learned counsel for the appellant, were considered by this Court in Oriental Insurance Co. Ltd. v. Inderjit Kaur [(1998) 1 SCC 371 : 1999 SCC (Cri) 148] in which it was laid down as under: (SCC p. 375, para 9)*
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> *"9. We have, therefore, this position. Despite the bar created by Section 64-VB of the Insurance Act, the appellant, an authorised insurer, issued a policy of insurance to cover the bus without receiving the premium therefor. By reason of the provisions of Sections 147(5) and 149(1) of the Motor Vehicles Act, the appellant became liable to indemnify third parties in respect of the liability which that policy covered and to satisfy awards of compensation in respect thereof notwithstanding its entitlement (upon which we do not express any opinion) to avoid or cancel the policy for the reason that the cheque issued in payment of the premium thereon had not been honoured."*

7. In light of the law laid down by the Hon'ble Supreme Court, the learned Tribunal was justified in directing the Insurance Company to satisfy the award in the first instance and thereafter recover the amount from the owner of the offending vehicle. The principle of "pay and recover" is settled to protect the rights of third-party victims and ensure immediate compensation.

8. Accordingly, this Court finds no illegality, irregularity, or perversity in the impugned judgment and award dated 05.01.2022 passed by the learned Motor Accident Claims Tribunal/IVth Additional District Judge, Haridwar.

9. The appeal is, therefore, dismissed as being devoid of merit. No order as to costs.

10. The statutory amount deposited by the appellant at the time of filing the appeal shall be remitted to the Tribunal concerned.

(Alok Mahra, J.)
30.10.2025

BS

BALWANT SINGH

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