 2026:HHC:47867

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO(MV) No. : 156 of 2020

Reserved on : 28.10.2026

Decided on : 31.10.2026

Uploaded on : 31.10.2026

Uttra Khand Transport Corporation Ltd. .....Appellant

Versus

Jai Devi & Others ...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.
Whether approved for reporting?

For the appellant	:	Mr. Rahul Mahajan, Advocate.
For the respondents	:	Mr. Mohan Singh, Advocate for respondents No.1 to 3. None for respondent No.4.

Virender Singh, Judge

Uttra Khand Transport Corporation, through its Regional Manager has filed the present appeal, under Section 173 of Motor Vehicles Act, 1988 (hereinafter referred to as 'the M.V. Act'), against the award dated 18.11.2019

passed in MAC Petition No.38-S/2 of 2017, titled as 'Smt. Jai Devi and others versus Uttra Khand, by learned Motor Accidents Claims Tribunal-I, Solan, District Solan, HP (hereinafter referred to as 'the Tribunal').

2. By way of the award dated 18.11.2019, the learned Tribunal, while allowing the petition, filed under Section 166 of M.V. Act, by respondents No.1 to 3, has awarded a sum of Rs. 14,14,060/-, along with interest @ 6% per annum from the date of filing of the petition till the realization of the whole amount, by fastening the liability to pay the amount of compensation upon the owner (appellant) and driver, jointly and severally.

3. For the sake of convenience, the parties to the lis, are hereinafter referred to, in the same manner, in which, they were referred to, by the learned Tribunal.

4. Brief facts, leading to the filing of the present appeal, before this Court, as borne out, from the record, may be summed up, as under:

4.1. The petitioners, being mother, widow, and son of Shri Randeep Singh, have filed the claim petition, under Section 166 of Motor Vehicles Act, seeking the amount of compensation on account of death of Shri Randeep Singh, in a motor vehicle accident, which had taken place on 27.07.2017 at about 11:00 AM, at Haridwar-Dehradun National Highway, near Teen Pani, within the jurisdiction of Police Station Raiwala, Sub District Rishikesh, District Dehradun, Uttarakhand, involving vehicle number UP-08UK-08PA-0310 (hereinafter referred to as 'the offending vehicle').

4.2. According to the petitioners, Shri Randeep Bhimta was about 36 years of age, and he was driver by profession. He was earning Rs.4,00,000/-, per annum, from the profession and Rs.3,00,000/-, per annum from the orchard. As such, his annual income has been pleaded as Rs.7,00,000/- per month.

4.3. It is the further case of the petitioners that on the relevant day, Shri Randeep was driving vehicle No.HP-01A-4581. When, the vehicle driven by him reached near Teen

Pani on Haridwar-Dehradun National Highway, the offending vehicle, being driven by respondent No.2, in a rash and negligent manner, came there, from opposite direction and hit the vehicle driven by Shri Randeep. Resultantly, he sustained fatal injuries and expired.

4.4. The information regarding the accident was given to Police of Police Station, Raiwala, where FIR No.138 of 2017 under Sections 279, 338, 304-A IPC, was registered against respondent No.2. Since, the accident, in question, has solely been attributed to the rash and negligent driving of the driver of the offending vehicle, as such, the petitioners have pleaded about their bright past and bleak future and sought the amount of compensation, as per the claim petition.

5. When put to notice, the claim petition has been contested by the respondents. Respondent No.1 filed the reply, by taking the preliminary objections that the petition is bad for non-joinder of necessary party, as, the Insurance Company of Tata Sumo bearing registration No.HP-01A-4581, has not been impleaded, as party, in the present case.

According to respondent No.1, the accident, in question, has taken place due to the rash and negligent driving of the deceased himself, while driving vehicle No.HP-01A-4581. According to them, the offending vehicle was parked on the extreme left on the kacha portion of the road, whereas, the deceased hit his vehicle with the stationary bus.

6. On merits, the contents of the claim petition have been denied, mainly, for want of knowledge.

7. The driver of the offending vehicle has filed a separate reply, by taking the preliminary objections that the offending vehicle was parked on the extreme left side of the road, whereas, the deceased came there, in vehicle No.HP-01A-4581 and hit the stationary bus. He has denied the other contents of the claim petition.

8. From the pleadings of the parties, the learned trial Court has framed the following issues, vide order dated 4.10.2019:-

> *1. Whether Randeep Singh died due to rash and negligent act on the part of respondent No.2 (being driver) of the vehicle No.UK-08-PA-0310?*
>
> *OPP*

2. *If issue No.1 is proved, in affirmative, whether the petitioners are entitled to compensation, if so, to what amount and from whom?* *OPP*

3. *Whether the petition is bad for non-joinder and mis-joinder of necessary parties?* *OPR*

4. *Whether the petition is not maintainable?* *OPR*

5. *Relief.*

9. Thereafter, the parties were directed to adduce evidence.

10. After the closure of the evidence and after hearing the learned counsel appearing for the parties, the learned Tribunal has allowed the claim petition, as referred to above.

11. Feeling aggrieved from the award, so passed by the learned Tribunal, respondent No.1, has filed the present appeal, before this Court, assailing the award mainly; on the ground that that the learned Tribunal has wrongly fastened the liability to pay the amount upon the respondents, whereas, it has been proved that the accident, in question, had taken place, due to the rash and negligent driving of the deceased himself.

12. The award has also been assailed on the ground that the learned Tribunal has wrongly taken the income of Randeep Bhimta as Rs.8,000/- per month, whereas, no evidence, to this effect, has been led by the petitioners.

13. On the basis of above facts, Shri Rahul Mahajan, Advocate for the appellant, appearing for the appellant/ respondent No.1, has prayed that the appeal may kindly be allowed, by setting aside the award dated 18.11.2019 and the petition, filed by the petitioners, may kindly be dismissed or in the alternative, it has been prayed that the amount of compensation may kindly be reduced.

14. Per contra, Shri Mohan Singh, Advocate, appearing for respondents No.1 to 3 has supported the award and prayed that the awarded amount may kindly be enhanced, so that the same could fall within the definition of 'just compensation'.

15. In the present case, factum of accident has not been disputed, however, the respondents have taken the

plea that the accident, in question, had taken place, due to the rash and negligent driving of the deceased himself.

16. In order to prove the case of the petitioners, petitioner No.2, Nisha Bhimta appeared in the witness-box as PW-2 and filed the affidavit, in her examination-in-chief, which is based upon the averments, as made, in the claim petition, but, she has admitted that the accident, in question had not taken place, in her presence.

17. As such, the evidence of this witness, being hit by Section 60 of the Evidence Act (Section of 55 of the Bharatiya Sakshya Adhiniyam), is not liable to be taken into consideration, as, she was not present, at the spot, at the time of accident. Section 60 of the Evidence Act, is reproduced, as under:-

> ***60. Oral evidence must be direct.*** *Oral evidence must, in all cases, whatever, be direct; that is to say, -If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it; If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it; If it refers to a fact which could be perceived by any sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;If it refers to an opinion or to the grounds*

> *on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds :*
>
> *Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable.*
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> *Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.*

18. The petitioners have examined PW-2 Kuldeep Bhimta, who, although, has deposed about the manner, in which, the accident, in question had taken place, but, in view of his admission, in the cross-examination that he was not present on the spot, at the time of accident, his statement is also not liable to be taken into consideration.

19. To rebut this evidence, respondent No.2, appeared in the witness-box and filed his affidavit Ex.RW-1/A, in which, he has taken the stand that the offending vehicle was parked on the left side of the road, whereas, the

deceased himself was driving his vehicle, in a rash and negligent manner. However, he has admitted that FIR No.138 of 2017, was registered against him, but, voluntarily stated that after the investigation, cancellation report has been filed by the Police. Admittedly, the said cancellation report has not been produced on the record.

20. The proceedings, under the M.V. Act, are summary, in nature, where the liability of the tortfeasor is to be fixed on the basis of the principle of preponderance of probabilities.

21. Factum of accident has not been denied by the parties to the present petition. However, the respondents have taken the plea that the accident, in question, had taken place due to the rash and negligent driving of the deceased himself. But, the admission of RW-1 qua registration of the FIR is a fact, which can be taken into consideration, as prima facie proof of rash and negligent driving of the driver of the offending vehicle, i.e., respondent No.2.

22. The FIR is on the record. In the FIR, allegations of rash and negligent driving were levelled against the driver of the offending vehicle. The evidence of RW-1, qua the rash and negligent driving of the deceased, is too short, as, he has mentioned about the registration number of the vehicle allegedly driven by the deceased and the alleged cancellation report has not been produced by him, on the file, nor, he has made any complaint to the higher authorities, with regard to the registration of the FIR against him, had he been falsely implicated, in the said case.

23. Considering the evidence on the touchstone of the preponderance of the probabilities, the petitioners have proved that the accident, in question, had taken place, due to the rash and negligent driving of the driver of the offending vehicle. Considering the said fact, the learned Tribunal has rightly concluded, in the present case, that the accident, in question, had taken place due to the rash and negligent driving of the driver of the offending vehicle.

24. In this case, the amount of compensation has also been assailed by the appellant/respondent No.1, on the

ground that the exorbitant amount of compensation has been awarded.

25. It is no longer *res integra* that the endeavor of the Court/Tribunal is to grant the '*just compensation*', as, the provisions of MV Act are beneficial piece of legislation.

26. In the document, Ex.PW-1/C, the date of birth of Randeep Singh, has been mentioned as 30.03.1981 and the accident had taken place on 27.07.2017. Meaning thereby, Randeep Singh was about 36 years of age, at the time of his death.

27. The learned Tribunal has taken the earnings of Shri Randeep Singh, during his lifetime as Rs.8,000/- per month. In view of the reasons assigned by the learned Tribunal, the said findings do not require any interference by this Court.

28. The learned Tribunal has given 40% increase, in the earnings of Shri Randeep Singh, on account of future prospects. The said findings also do not require any interference by this Court.

29. The learned Tribunal has also deducted 1/3rd amount on account of personal expenses, had Shri Randeep Singh, was alive. The said findings also need no interference by this Court.

30. Learned Tribunal has applied the multiplier of '15', which is the appropriate multiplier. The said findings also do not require any interference by this Court.

31. The learned Tribunal has awarded a sum of Rs.15,000/-, under the head 'loss of estate', Rs.40,000/-, under the head 'loss of consortium' and Rs.15,000/-, under the head 'funeral expenses'. The said findings also require no interference by this Court. However, the learned Tribunal has not awarded consortium to the each of the claimants.

32. The Hon'ble Supreme Court in ***Magma General Insurance Company Limited versus Nanu Ram @ Chuhru Ram and others, (2018) 18 SCC 130***, has mandated that each claimant is entitled to the amount of compensation under the head 'loss of consortium'. Relevant paragraphs 21 to 24 of the judgment, are reproduced, as under:-

"21. A Constitution Bench of this Court in Pranay Sethi dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses `spousal consortium', `parental consortium', and `filial consortium'. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse:

21.1. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, co-peration, affection, and aid of the other in every conjugal relation".

21.2. Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training."

21.3. Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of

> *a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*
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> *23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*
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> *24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under `loss of consortium' as laid down in Pranay Sethi (supra). In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs.40,000 each for loss of Filial Consortium.*

33. Thus, the said findings require interference by this Court, by holding that all the claimants are entitled to compensation, under the head 'loss of consortium'

34. Thus, the entitlement of the petitioners, is adjudicated, as under:

1. Loss of income	=	Rs.13,44,060/-
2. Loss of consortium	=	Rs.1,20,000/- (Rs.40,000 x 3)
3. Loss of estate	=	Rs.15,000/-
4. Funeral Expenses	=	Rs.15,000/-
Total	=	Rs.14,94,060/-.

35. So far as the rate of interest is concerned, the said findings do not require any interference by this Court.

36. Consequently, the present appeal is dismissed. The awarded amount is enhanced from Rs.14,14,060/- to Rs.14,94,060/-, with interest @ 7.5% per annum. The award passed by the learned Tribunal is modified accordingly.

37. Parties are left to bear their own costs.

38. Memo of costs be prepared accordingly.

39. Record be sent back.

(Virender Singh)
Judge

31st October, 2026 *(ps)*