2026:UHC:875

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No.91 of 2013

13 February, 2026

National Insurance Company Limited --Petitioner

Versus

Sri Vijay Chauhan and Ors. --Respondents

Presence:-

Mr. Lalit Belwal, learned counsel for appellant-Insurance Company.

Mr. Pankaj Kumar Sharma, learned counsel for respondent Nos.1 to 4/claimants.

Hon'ble Pankaj Purohit, J. (Oral)

This appeal from order has been filed by the appellant-Insurance Company against the judgment and award dated 07.12.2012, passed by learned Third Additional District Judge/M.A.C.T., Haridwar, in M.A.C.P. Case No.94 of 2009 *Vijay Chauhan and Ors. Vs. Inder Singh and Ors.*, whereby, the said claim petition was allowed and the learned Tribunal awarded a sum of Rs.3,70,000/- as compensation @9% interest per annum from the date of filing of claim petition i.e.19.05.2006, against the appellant to be paid within 30 days from the date of passing of the order i.e.07.12.2012.

2. The brief facts of case are that on 01.08.2008 at about 06.30 a.m., deceased and respondents-claimants were coming from Delhi to Roorkee in their vehicle No.UA 08 D-9253, near village Bhuraheri, District Muzaffarnagar, the driver of trolley No.H.R. 55H-7071, which was moving ahead the vehicle of deceased, suddenly applied the break. Due to the sudden break, the husband of deceased tried hard to control the vehicle but could not control and collided with the trolley, due to which they sustained serious injuries and resulted in the death of Smt. Anju Chauhan on the spot.

3. The first information report of the accident was

registered at Thana Purkaji, District Muzaffarnagar as G.D. No.14 of 2008. The wife of the respondent No.1 was a healthy woman and used to teach tution at home and in the remaining time, used to help her husband in shop saraf, from which she used to earn Rs.3300/- per month. Thus, they had requested for compensation of Rs.20,20,000/- along with the interest of 12% from the appellant-Insurance Company, owner of the vehicle and driver jointly and separately.

4. Respondent Nos.5 and 6, in its written statement submitted that respondents-claimants filed the claim petition with the intention of earning illegal income by making highly inflated claims. They also submitted that no accident was caused by the vehicle No.H.R. 55H-7071 on 01.08.2008. It is further submitted that no FIR was registered at the concerned police station regarding the alleged incident. Respondent No.1 (husband of deceased) was driving his car at high speed and recklessly and drove his car into the said vehicle parking on the roadside, which fact was registered in General Diary No.14 dated 01.08.2008 of Purkaji Police Station. Respondent No.6-driver was holding a valid driving license and other documents. Thus, the respondent Nos.5 and 6 are not entitled to get any claim from them.

5. Appellant-Insurance Company in its written statement also denied the averment made in the claim petition and submitted that it is not admitted that the deceased-Anju Chauhan had died in the alleged accident and further it is also not admitted that the age of deceased was 40 years and her monthly income was Rs.3300/-. It is further submitted that at the time of alleged accident, owner of the vehicle did not have valid documents i.e. Registration Fitness, Permit etc. and the driver of the vehicle did not have a valid driving license, thus, the

appellant is not entitled to pay any claim. He also submitted that the compensation demanded by respondents-claimants in claim suit is grossly inflated and without any reasonable basis, which they are not entitled to get.

6. Learned Claims Tribunal framed as many as 6 issues on the basis of pleading of the parties, which are reproduced as below:

> *(1) Whether on 01.08.2008 at about 06:30 a.m., place Delhi Roorkee, in Village Buraheri, District Muzaffarnagar, the driver of Vehicle No.H.R.-55H-7071 suddenly applied brakes and the brake lights of the vehicle were also not on, due to which vehicle No.UA-08-D-9253 collided with the above mentioned vehicle, due to which deceased Mrs. Anju Chauhan sustained several injuries and died due to those injuries?*
>
> *(2) Whether at the time of accident, the driver of Vehicle No.H.R.-55H-7071 was moving without valid documents?*
>
> *(3) Whether at the time of accident, the driver of Vehicle No.H.R.-55H-7071 have a valid driving license?*
>
> *(4) Whether the Insurance Company of Car No. UA-08-D-9253 is party to the said petition tainted by the defect of its making?*
>
> *(5) Whether the claimants entitled to any claim? If yes, for how much amount and from which opponent?*
>
> *(6) Whether the driver of car (Petitioner Vijay Chauhan) has a valid driving license on 01.08.2008?*

7. After going through the material available on record and the evidence of the parties adduced during trial, learned Claims Tribunal partly allowed the claim petition by reason of the impugned judgment and award dated 07.12.2012 and awarded a sum of Rs.3,70,000/- as compensation @9% interest p.a. against the appellant and to be paid from the date of filing of claim petition i.e.19.05.2006, against the appellant to be paid within 30 days from the date of passing of the order i.e.07.12.2012.

8. Feeling aggrieved of the aforesaid judgment and award dated 07.12.2012, the appellant–Insurance Company has preferred this appeal before this Court under Section 173 of Motor Vehicle Act, 1988.

9. It is contended by learned counsel for appellant that Issue No.6 is dealt with by the learned Tribunal in a very casual and cursory manner and it is stated that from

bare perusal of the impugned award, it is reflected that learned Tribunal has not judiciously applied its mind while dealing with Issue No.6.

10. Learned counsel for the appellant-Insurance submits that learned Tribunal has committed manifest error of law by holding the insured vehicle (HR 55 H 7071) liable for accident, as there was no specific evidence to prove that the insured vehicle was liable for accident. Further learned Tribunal has already dismissed one claim petition being M.A.C.P. No.93 of 2009 *Vijay Chauhan Vs. Inder Singh*, on 07.12.2012, on the ground of insufficient evidence of accident, which was also arose on the basis of the same alleged accident, thus, the impugned judgment and award is bad in the eyes of law and liable to be set aside.

11. Learned counsel for appellant further submits that for the alleged accident, no charge-sheet has been filed against the driver of the insured vehicle (HR 55 H 7071), thus, no liability can be fastened upon the appellant-Insurance in the present case. He also submits that the insured vehicle was standing still in the place below the road and it was the driver of car No.UA-08-D-9253 who dashed its vehicle in the parked truck, which ipso facto proved that driver of car, is and can be held liable for the accident, and thus, liability cannot be fastened upon the Appellant-Insurance Company.

12. Per contra, it is submitted by the learned counsel for the respondent Nos.1 to 4/claimants that there is no illegality in impugned judgment and award dated 07.12.2012.

13. It is further submitted by him that the claim petition was filed under Section 163(A) of the Motor Vehicles Act and according to Section 163(A)(2) of the M.V. Act, the claimants did not require to prove the fact of

negligence. For ready reference, Section 163(A)(2) is quoted herein below:-

> *"**163(A)(2)**. In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person."*

Thus, it is submitted by him that in view of Section 163(A) of M.V. Act, the fact of negligence on the part of owner of the vehicle and appellant-Insurance Company need not to be proved.

14. Having carefully considered the submissions made by learned counsel for the appellant and having perused the material available on record, this Court finds favour with the submission made by learned counsel for appellant-Insurance Company that Issue No.6 is dealt with by the learned Tribunal in a very casual and cursory manner and it is stated by the learned Tribunal that at this stage, it was not required to inspect the driving license of the driver, which does not evidently show application of judicial mind.

15. Accordingly, the present appeal from order is partly allowed. The matter is remanded back to the learned Motor Accident Claims Tribunal, Haridwar to deal with the Issue No.6 in accordance with law. Rest of the findings with regards to other issues, are affirmed.

16. No order as to costs.

17. Let the T.C.R. be immediately sent back to the learned Trial Court for necessary action and for deciding the matter afresh accordingly. The Statutory deposited by the appellant-Insurance Company before this Court or before the learned MACT concerned in the matter be released in favour of the appellant.

(Pankaj Purohit, J.)
13.02.2026

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