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2026:UHC:9854

Reserved on 17.09.2026
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HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No.435 of 2013
(Under Section 173 of Motor Vehicles Act)

Oriental Insurance Company Ltd

.....Appellant

Versus

Mohd. Rais and Others

.....Respondent

Presence:-

Mr. T.A. Khan, learned Senior Advocate assisted by Ms. Sheeba Ahmed, learned counsel for the appellant/Insurance Company.

Mr. Akhil Kumar Shah, learned counsel for respondent nos.1 & 2.

Ms. Ruchika Negi, proxy counsel for Mr. Sandeep Kothari, learned counsel for respondent nos.3 & 4.

Per: Hon'ble Mr. Alok Mahra, J.

By means of the present appeal, preferred under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the M.V. Act"), the appellant–Insurance Company has assailed the judgment and award dated 20.07.2013 passed by the learned Motor Accident Claims Tribunal/Additional District Judge, Nainital (hereinafter referred to as "the Tribunal") in Motor Accident Claim Petition No. 02 of 2012. By the said judgment and award, the learned Tribunal has awarded a sum of ₹2,86,000/- as compensation in favour of respondent nos. 1 and 2/claimants.

2. Learned counsel appearing for the appellant–Insurance Company would submit that on 30.05.2011, the deceased, Master Aman, aged about

nine years, who was the son of respondent nos. 1 and 2, was travelling with his father, respondent no. 1, on a scooter from Ramnagar towards Village Dhikuli, when they reached near Village Ringora, a Gypsy bearing registration no. UK-04-TA-2979, allegedly being driven rashly and negligently from the side of Village Dhikuli, collided with the scooter of respondent no. 1, as a result of the accident, Master Aman sustained serious injuries; that, after receiving initial medical treatment, the injured was referred to Sushila Tiwari Hospital and thereafter to Shri Ram Murti Medical College, Bareilly, however, on 10.06.2011, he succumbed to the injuries sustained in the accident. In connection with the incident, an F.I.R. was registered at the concerned police station. Thereafter, respondent nos. 1 and 2, being the father and mother of the deceased minor, instituted the claim petition seeking compensation of ₹10,00,000/-.

3. Learned counsel for the appellant would further submit that respondent nos. 3 and 4 filed their written statement before the learned Tribunal, wherein it was pleaded that the accident had occurred on account of the scooter rider attempting to overtake another vehicle and that three persons were travelling on the scooter. It was also pleaded that the driver of the offending Gypsy possessed a valid and effective driving licence. It is contended that the appellant–Insurance Company contested the claim petition, *inter alia*, on the ground that the driver of the offending vehicle did not possess a valid and effective driving

licence on the date of the accident. According to the appellant, the licence was valid only up to 21.02.2010, whereas the accident took place on 30.05.2011. In support of its contention, the Insurance Company examined a witness who was working as a Junior Engineer in the office of the Regional Transport Office, Haldwani.

4. The learned Tribunal, upon consideration of the pleadings and evidence adduced by the parties, framed the following issues:

> (i) Whether on 30.05.2011 at about 10:00 a.m., on the Ramnagar–Garjia main road, near Village Ringora, Police Station Ramnagar, District Nainital, the driver of the Gypsy bearing registration no. UK-04-TK-2979, while driving rashly and negligently, collided with the scooter on which the deceased Aman was travelling with his father, respondent no. 1, resulting in serious injuries to the deceased and his subsequent death on 10.06.2011 during treatment?
>
> (ii) Whether the claim petition is bad for non-joinder of necessary parties, namely, the owner of the scooter and its insurer, as pleaded by the appellant–Insurance Company?
>
> (iii) Whether the offending Gypsy was insured with the appellant–Insurance Company at the time of the accident and whether the claim was covered under the terms and

conditions of the insurance policy?

(iv) Whether the claimants are entitled to compensation? If so, to what extent and from which of the parties?

5. Upon appreciation of the oral and documentary evidence, the learned Tribunal answered the material issues in favour of the claimants and against the appellant–Insurance Company. Consequently, vide judgment and award dated 20.07.2013, the learned Tribunal awarded compensation of ₹2,86,000/- in favour of respondent nos. 1 and 2 and fastened the liability upon the appellant–Insurance Company.

6. Learned counsel for the appellant would submit that the learned Tribunal failed to properly appreciate the statement of the RTO witness and the relevant records maintained by the Regional Transport Office. It is argued that the endorsement authorising the driver to operate a public service vehicle was valid only up to 21.02.2010, and, therefore, the driver was not authorised to drive the transport vehicle on the date of the accident. It is further submitted that the learned Tribunal erroneously held that the driver possessed a valid driving licence for the period from 22.02.2007 to 16.06.2014. According to the appellant, although the driver possessed a licence for a light motor vehicle, he did not possess the requisite authorisation to drive a transport vehicle on the date of the accident. Learned counsel has also relied upon the judgment in Bajaj Allianz General Insurance Co.

Ltd. v. Rambha Devi in support of the submissions advanced.

7. Per contra, learned counsel appearing for respondent nos. 1 and 2/claimants would submit that the compensation awarded by the learned Tribunal is inadequate and does not constitute just compensation. It is contended that the deceased was a minor child aged about nine years and that the learned Tribunal awarded only ₹1,50,000/- towards the death of the child, apart from the other amounts awarded under different heads. He would further submit that the learned Tribunal awarded ₹50,000/- under the head of future prospects and ₹10,000/- each to the parents towards the loss of love and affection and funeral expenses. It is argued that no appropriate amount was awarded towards loss of dependency and that the compensation is liable to be reassessed in accordance with the principles laid down by the Hon'ble Supreme Court in Meena Devi v. Nunu Chand Mahto @ Nemchand Mahto and Others, (2023) 1 SCC 204.

8. Learned counsel for the claimants has also placed reliance upon the judgment of the Hon'ble Supreme Court in Ranjana Prakash and Others v. Divisional Manager and Another, (2011) 14 SCC 639, particularly paragraphs 7 and 8 thereof, to contend that the appellate Court is required to determine just compensation in accordance with the applicable legal principles.

9. Learned counsel appearing for the appellant–Insurance Company, in response to the claim for

enhancement, would submit that respondent nos. 1 and 2 have not preferred any independent appeal or cross-objections challenging the quantum of compensation awarded by the learned Tribunal. Therefore, in an appeal preferred by the Insurance Company seeking reduction or setting aside of the award, the compensation cannot be enhanced in favour of the claimants. In support of the aforesaid submission, learned counsel has relied upon the judgment of the Hon'ble Supreme Court in Ranjana Prakash and Others v. Divisional Manager and Another, (2011) 14 SCC 639, wherein the scope of the appellate Court's power in an appeal preferred by the owner or insurer has been considered.

10. Learned counsel appearing for respondent nos. 1 and 2–claimants, in response to the aforesaid submission, would submit that the appellate Court, while considering an appeal preferred by the Insurance Company, is not precluded from examining the adequacy of the compensation awarded by the learned Tribunal and granting just and reasonable compensation in accordance with law. It is contended that the claimants are legally entitled to receive just compensation under the provisions of the Motor Vehicles Act, and such entitlement cannot be defeated merely on the ground that they have not preferred any independent appeal or cross-objections. Learned counsel would further submit that the judgment relied upon by learned counsel for the Insurance Company, namely, Ranjana Prakash and Others v. Divisional

Manager and Another, (2011) 14 SCC 639, is distinguishable on the facts of the present case and does not operate as an absolute bar against the grant of just compensation where the material on record warrants such enhancement. Accordingly, learned counsel prays that the claim for enhancement of compensation be considered in accordance with law, notwithstanding the absence of any independent appeal or cross-objections on behalf of the claimants.

11. Learned counsel for the claimants has relied upon the judgment of the Hon'ble Supreme Court in Meena Devi v. Nunu Chand Mahto @ Nemchand Mahto and Others, (2023) 1 SCC 204, and has submitted that, keeping in view the age of the deceased minor, notional income of ₹30,000/- per annum, including future prospects, may be taken into consideration and the appropriate multiplier may be applied.

12. Heard learned counsel for the parties and perused the material available on record.

13. The appellant's principal contention is that the driver of the offending vehicle did not possess a valid and effective driving licence on the date of the accident. The said contention is required to be examined in the light of the driving licence, the relevant endorsement, the category of the vehicle involved, and the evidence adduced by the parties before the learned Tribunal. It is settled that the burden of establishing a breach of a policy condition, where such breach is relied upon by the Insurance

Company to avoid or limit its liability, cannot be discharged merely by raising a bald plea. The insurer is required to establish the relevant policy breach in accordance with law. The effect of the licence held by the driver must be determined by examining the applicable statutory provisions and the evidence available on record.

14. The first question which arises for consideration is whether the appellant–Insurance Company has established that the driver of the offending vehicle was not holding a valid and effective driving licence on the date of the accident. The contention of the appellant is that the authorisation to drive a public service vehicle was valid only up to 21.02.2010, whereas the accident took place on 30.05.2011. It is, therefore, argued that the driver was not authorised to drive the offending transport vehicle on the date of the accident. However, the mere expiry of a particular endorsement cannot, by itself, be treated as conclusive proof of a breach of the insurance policy. The Court is required to examine the precise category of the vehicle involved, the terms and validity of the driving licence, the nature of the endorsement, and the evidence adduced by the Insurance Company to establish the alleged breach.

15. In the present case, the learned Tribunal has considered the evidence of the witness produced from the office of the Regional Transport Office and the relevant driving licence records. The appellant has assailed the appreciation of the said evidence,

contending that the transport authorisation had expired before the date of the accident. Nevertheless, the Insurance Company must establish, by reliable and cogent evidence, that the driver was not legally authorised to drive the particular vehicle involved in the accident and that the alleged non-compliance constituted a breach of the relevant policy condition. The burden cannot be discharged merely by referring to the expiry of one endorsement without establishing its legal effect upon the driver's authority to operate the offending vehicle.

16. Upon consideration of the material placed on record, this Court finds that the appellant has not demonstrated sufficient grounds for interfering with the finding recorded by the learned Tribunal fastening liability upon the Insurance Company. The finding regarding the validity and effectiveness of the driving licence does not warrant interference in the absence of a legally sustainable basis to conclude that the relevant policy condition stood breached. Accordingly, the challenge raised by the appellant–Insurance Company on the ground of the driving licence is rejected.

17. The next question is whether the compensation awarded by the learned Tribunal requires interference. The deceased, Master Aman, was a minor child aged approximately nine years at the time of the accident. The learned Tribunal awarded a total compensation of ₹2,86,000/- in favour of respondent nos. 1 and 2/claimants. The claimants

have submitted that the amount awarded by the learned Tribunal does not represent just compensation and that the compensation is required to be assessed by applying the principles laid down by the Hon'ble Supreme Court in Meena Devi v. Nunu Chand Mahto @ Nemchand Mahto and Others, (2023) 1 SCC 204. In the said decision, the Hon'ble Supreme Court considered the assessment of compensation in a case involving the death of a minor child, including the application of notional income and the multiplier method. The principles laid down therein are required to be applied having regard to the facts and circumstances of the case and the heads of compensation legally permissible.

18. The claimants have proposed the assessment of compensation on the basis of notional income of ₹30,000/- per annum and a multiplier of 15, together with amounts under the heads of loss of estate, funeral expenses, filial consortium and medical expenses. The proposed computation is as follows:

Head of compensation	**Amount**
Loss of dependency (₹30,000 × 15)	₹4,50,000/-
Loss of estate	₹19,965/-
Funeral expenses	₹19,965/-
Filial consortium to both parents	₹1,06,480/-
Medical expenses	₹66,000/-
Total	₹6,62,410/-

19. The above calculation has been placed before the Court on behalf of the claimants. The entitlement to each head, the applicable legal principles, and the supporting evidence must be examined before the

amount can be finally awarded.

20. The appellant–Insurance Company has contended that the claimants have not preferred any independent appeal or filed cross-objections seeking enhancement of the compensation awarded by the learned Tribunal. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in Ranjana Prakash and Others v. Divisional Manager and Another, (2011) 14 SCC 639. In Ranjana Prakash (supra), the Hon'ble Supreme Court explained that, in an appeal preferred by the owner or insurer, the claimants are entitled to defend the compensation awarded by the Tribunal by pointing out grounds which would prevent its reduction. However, the judgment also addressed the limitations on seeking a higher amount of compensation in the absence of a cross-appeal or cross-objections.

21. At the same time, the subsequent decision of the Hon'ble Supreme Court in Surekha v. Santosh, (2021) 16 SCC 467, is relevant to the consideration of just compensation under the Motor Vehicles Act. The legal position must therefore be examined in the light of the applicable binding precedent and the nature of the relief sought in the present appeal. The Court must distinguish between (i) determining the compensation that is legally just on the basis of the material on record, and (ii) the permissible scope of granting an enhanced amount in an appeal filed by the Insurance Company. The question cannot be decided merely by accepting the proposed computation

without considering the relevant authorities and the procedural posture of the appeal.

22. Having regard to the age of the deceased, the principles governing the assessment of compensation in cases involving the death of a minor child, and the material available on record, this Court is of the view that the compensation requires reassessment in accordance with law. The notional income of ₹30,000/- per annum and the multiplier of 15, as proposed by the claimants, result in compensation of ₹4,50,000/- towards loss of dependency. In addition thereto, the amounts claimed under the heads of loss of estate, funeral expenses, filial consortium and medical expenses are required to be considered in the light of the applicable legal principles and the evidence available on record. The proposed computation is set out below:

Head of compensation	**Amount**
Loss of dependency	₹4,50,000/-
Loss of estate	₹19,965/-
Funeral expenses	₹19,965/-
Filial consortium to both parents	₹1,06,480/-
Medical expenses	₹66,000/-
Total compensation	₹6,62,410/-

23. Accordingly, subject to the legal admissibility of the individual heads and the supporting material on record, the amount of ₹6,62,410/- is determined as the proposed reassessed compensation.

24. The Hon'ble Supreme Court in Ranjana Prakash (supra) laid down principles regarding the

scope of enhancement in an appeal preferred by the owner or insurer. The later judgment in Surekha (supra) is also relevant to the power of the appellate Court to ensure that just compensation is awarded under the Motor Vehicles Act. The applicable position must be considered while determining whether the reassessed amount can be granted in the present proceedings. On the facts and circumstances of the present case, and having regard to the beneficial object of the Motor Vehicles Act, this Court considers it appropriate to examine the entitlement to just compensation on the basis of the applicable principles rather than treating the absence of cross-objections as conclusively preventing consideration of the reassessment.

25. Consequently, the compensation payable to respondent nos. 1 and 2/claimants is reassessed at ₹6,62,410/-, subject to adjustment of any amount already deposited or paid pursuant to the judgment and award of the learned Tribunal.

26. The appellant–Insurance Company shall deposit the balance amount, after giving credit for the amount already deposited or paid, before the learned Tribunal within the period prescribed by this Court. The amount shall carry interest at the rate applicable under the judgment and award, unless modified in accordance with law.

27. Accordingly, the present appeal is dismissed insofar as the challenge raised by the

appellant–Insurance Company to the finding of liability is concerned. The compensation is reassessed at ₹6,62,410/- in terms of the foregoing discussion, subject to the applicable legal principles and adjustment of the amount already awarded or deposited. The learned Tribunal shall ensure disbursement of the amount in favour of the claimants in accordance with law.

28. All pending applications, if any, stand disposed of.

29. The record of the appeal shall be consigned accordingly.

30. There shall be no order as to costs.

31. The statutory amount if any remitted back to the learned Tribunal.

(ALOK MAHRA,J.)
29.10.2026

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