Reserved on: 01.10.2026

Delivered on: 29.10.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 553 of 2016

The New India Assurance Company Limited

--Appellant

Versus

Bhaguli Devi and others

--Respondents

Presence:-
Mr. V.K. Kohli, Senior Advocate assisted by Mr. Kanti Ram Sharma, Advocate for the appellant.

Mr. K.S. Bora, Advocate for the respondents.

JUDGMENT

Hon'ble Ravindra Maithani, J.

The challenge in this appeal is made to the judgment and order dated 06.08.2016 passed in Motor Accident Claim Petition No. 05 of 2016, Smt. Bhaguli Devi and others v. New India Insurance Company Ltd. and another, by the Motor Accident Claims Tribunal/ District Judge, Almora ("the Tribunal"). By it, the petition filed by the respondent nos. 1, 2 & 3/claimants under Sections 140/166 of the Motor Vehicles Act, 1988 ("MV Act") seeking compensation on the death of Vinod Kumar Bhoj in a motor accident has been allowed and they have been awarded compensation of Rs. 63,70,000/- alongwith interest at the rate of 7 % *per annum,* and it is the appellant, who has been directed to pay the amount of compensation.

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

3. Facts necessary to appreciate the controversy, briefly stated, are as follows. According to the respondent nos. 1, 2 &

3/claimants, the deceased Vinod Kumar Bhoj was working as a Pharmacist in Allopathic Hospital, Naini, Jageshwar and was drawing salary of Rs. 35,000/- per month. On 14.09.2015, the deceased was driving the car bearing Registration No. UK 01A-9174 ("the vehicle") owned by his wife/respondent no. 4, to join his duties. On that day, at about 11:00 a.m., the vehicle met with an accident and fell in a gorge, due to which the deceased Vinod Kumar Bhoj, who was driving the vehicle, died on spot. The respondent no. 1 Smt. Bhaguli Devi is the mother of the deceased, the respondent no. 2 Vansh Bhoj is the son of the deceased and the respondent no. 3 is Km. Varnika is the daughter of the deceased. Based on the aforesaid averments, the claim petition was filed.

4. The appellant did file its objections and denied the claim made by the respondent nos. 1, 2 & 3/claimants. According to them, the deceased was driving the vehicle owned by his wife, therefore, he was neither a workman nor a third party. Accordingly, it was objected by the appellant that the claimants are not entitled to any compensation. There are various other objections taken by the appellant in their written statement.

5. The respondent no. 4/wife of the deceased, who is the owner of the vehicle also filed her objections. According to her, the vehicle had all the valid documents on the date of incident. The deceased had borrowed the vehicle from her. He had a valid driving license also. According to the respondent no. 4, the onus to pay compensation is on the appellant. Accordingly, it is objected that the claim petition may be rejected.

6. Based on the pleadings of the parties, five issues were framed, which are as follows:-

"1. Whether on 14.09.2015 at 11:00 a.m. the deceased Vinod Kumar was driving the Car No. UK 01A-9174 of his wife near Nonasiling, Gram Sabha Falyat, which met with an accident and fell down into gorge, due to which Sri Vinod Kumar sustained serious injuries and died on spot due to serious injuries sustained by him. If so, its effect?

2. Whether for the purposes of Insurance Company, the deceased shall be deemed a third party on the ground that he was driving the vehicle of his wife?

3. Whether the deceased Vinod Kumar was having learning licence at the time of driving the vehicle, for which reason it shall not be treated that he was having a valid licence holder?

4. Whether the vehicle which met with the accident was being driven as per the provisions of the Motor Vehicles Act, along with all the valid documents and as per the conditions of insurance policy?

5. To which relief the claimants are entitled and from whom?"

7. On behalf of the respondent nos. 1, 2 & 3, total three witnesses, namely, PW 1 Smt. Bhaguli Devi, PW 2 Gauri Shankar and PW 3 Girjesh Kumar were examined. They have also produced documentary evidence in support of their claim.

8. On behalf of the appellant, no oral evidence was adduced, however, in documentary evidence, certain documents were filed on their behalf.

9. On issue no. 1, the Tribunal held that at the time of the accident, the deceased was driving the vehicle in a rash and negligent manner, but the accident took place due to sudden appearance of a wild animal on the road.

10. On issue no. 2, the Tribunal held that the appellant is liable to pay the compensation. The deceased is a third party. On issue no. 3, the Tribunal held that even if the deceased had a learning driving licence, it shall be considered as a valid driving licence. On issue no. 4, it was held that the vehicle had all the valid documents at the time of accident.

11. Issue no. 5 is with regard to compensation. After computing the amount, a total compensation of Rs. 63,70,000/- has been awarded. Aggrieved, the appellant has preferred the appeal.

12. Learned Senior Counsel for the appellant submits that the deceased was not a third party and a petition under Section 166 of the MV Act is maintainable only against a third party. It is also argued that since the owner of the vehicle is the wife of the deceased and the deceased had borrowed the vehicle from his wife, he shall step into the shoes of his wife; he became owner of the vehicle and, therefore, the claimants are entitled to Rs. 2,00,000/- only towards personal accident claim, for the premium of Rs. 100/- paid under the personal accident claim. It is argued that the Tribunal has wrongly read the judgment in the case of National Insurance Company Ltd. v. Balakrishnan and another, 2013(1) T.A.C. 1 (S.C.). It is argued that in that case, in fact, the deceased was the occupant of the car; he was not the driver of the car.

13. Learned Senior Counsel for the appellant also submits

that the issue has finally been decided by this Court in the cases of National Insurance Co. Ltd. v. Asifa and another, 2015 (1) T.A.C. 2008 (Uttara.) and the Oriental Insurance Co. Ltd. v. Kumari Ashmita Pant and others, 2009 (1) U.D. 171. It is also argued that in order to maintain a claim petition under Section 166 of the MV Act, the rashness and negligence of the driver is necessary.

14. On the other hand, learned counsel for the respondent nos. 1, 2 & 3/claimants submits that the impugned judgment and order is lawful. He would submit that in such matters, the Court should not take a technical view. In support of his contention, learned counsel has placed reliance on the principle of law as laid down in the case of National Insurance Co. Ltd. v. Thungala Dhana Laxmi and others, 2026 SCC OnLine SC 1486, in which case, in para 34, the Hon'ble Supreme Court observed as follows:-

> **"34.** It is well settled that in matters concerning motor accident claims, Courts should not adopt a hyper-technical approach, See: *Surekha* v. *Santosh,* (2021) 16 SCC 467. As rightly submitted by the claimant-respondents, in accordance with the circular of the IRDA dated 16.11.2009, insurance companies are liable to compensate for any occupant in the vehicle under a *comprehensive/package policy*. Consequently, we find no reason to disagree with the reasoning adopted by the High Court. The present Civil Appeal is dismissed to that extent."

15. It is also argued that the policy is comprehensive and the respondent nos. 1, 2 & 3 are entitled to compensation. Learned counsel has also relied on the principle of law as laid down in the case of Jagtar Singh *Alias* Jagdev Singh v. Sanjeev Kumar and others, (2018) 15 SCC 189. In that case, the insurer was absolved on the ground that the appellant was a gratuitous passenger in that car. But, the Hon'ble Supreme Court remitted the matter to the High Court for

consideration as to whether the policy in question is a "comprehensive/package policy" or exclusively an "Act policy".

16. In the case of Asifa (*supra*), the facts were almost identical. In that case also, the husband of the owner of the vehicle was driving a car, which met with an accident when an animal came on the road and the vehicle became uncontrolled and fell down into a ditch. This was the finding of the Tribunal in the instant case. In the case of Asifa (*supra*), this Court relied on the principle of law as laid down in the case of Ashmita Pant (*supra*), in which case, this Court observed as follows:-

> "12. In the instant case, deceased was using the car given to him by his wife for use. He is not covered by the insurance policy in terms of the Act, without any special contract. The deceased was not the workman of the owner of the vehicle, therefore, in any case the deceased is not covered under the term 'third party'. I am, therefore, of the view that direction issued by the Tribunal by way of impugned judgment and award to pay the amount of compensation to the insurance company, is not tenable in the eyes of law."

17. Accordingly, the Coordinate Bench of this Court in the case of Asifa (*supra*) held that the driver, who was husband of the deceased was not a third party. He would be treated as owner-cum-driver and he is entitled to the personal accident covers. This is the fact, which is admitted by the appellant in the instant case. In fact, in the appeal itself, in the ground of appeal, in para 6, the appellant writes that the heirs of the deceased Vinod Kumar Bhoj would be entitled to a sum of Rs. 2,00,000/- as personal accident.

18. In fact, in the case of, Balakrishnan (*supra*), on which the Tribunal relied, the claim was not made by a driver. In para 21, in the case of Balakrishnan (*supra*), the Hon'ble Supreme Court

observed that "**In view of the aforesaid factual position, there is no scintilla of doubt that a "comprehensive/package policy" would cover the liability of the insurer for payment of compensation for the occupant in a car.** In the instant case, the deceased Vinod Kumar Bhoj was not the occupant in the car. Instead, he was owner-cum-driver.

19. In the case of Ramkhiladi and another v. United India Insurance Company and another, (2020) 2 SCC 550, the deceased had borrowed the motorcycle from its registered owner, which met with an accident. In that case, the Hon'ble Supreme Court held that the deceased had stepped into the shoes of the owner of the vehicle.

20. In the instant case, admittedly the deceased Vinod Kumar was driving the vehicle owned by his wife/respondent no. 4. He stepped into the shoes of the owner. He is not a third party. Therefore, the respondent nos. 1, 2 & 3/claimants may only be entitled to the compensation of Rs. 2,00,000/- under personal accident covers, as admitted by the appellant itself.

21. In view of the foregoing discussions, this Court is of the view that the Tribunal has committed gross error in awarding the compensation to the respondent nos. 1, 2 & 3/claimants to the tune of Rs. 63,70,000/-. The respondent nos. 1, 2 & 3/claimants are not entitled to this amount.

22. The respondent nos. 1, 2 & 3/claimants are entitled to get compensation of Rs. 2,00,000/- only under the personal accident covers, which shall be paid by the appellant to the respondent nos. 1, 2 & 3/claimants, if not already paid. The claimants shall also be entitled to an interest at the rate of 7 % *per*

annum from the date of filing of the application.

23. Accordingly, the appeal is partly allowed.

24. The judgment and order dated 06.08.2016 passed in Motor Accident Claim Petition No. 05 of 2016, Smt. Bhaguli Devi and others v. New India Insurance Company Ltd. and another stands modified to the extent as aforesaid.

25. Let the record of the Tribunal along with a copy of this judgment be forwarded to the Tribunal concerned.

26. Let the statutory amount of Rs. 25,000/- deposited by the appellant before this Court be also remitted to the Tribunal concerned.

(Ravindra Maithani, J.)
29.10.2026

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