UKHC010096672024

2026:UHC:10155

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 255 of 2024

The Oriental Insurance Company Ltd. .....Appellant

Versus

Smt. Preeti Rani and others .....Respondents

Present:-

Mr. I.P. Kohli, Advocate for the appellant.
None is present for the respondent no.1.
Mr. Neeraj Garg, Senior Advocate, assisted by Mr. Rajendra Arya, Advocate for the respondent no.2.
Ms. Radha Arya, Advocate for the respondent no.3.
Mr. Pramod Bailwal, Advocate for the respondent no.4

With

Appeal From Order No. 254 of 2024

The Oriental Insurance Company Ltd. .....Appellant

Versus

Mathura Devi and others .....Respondents

Present:-

Mr. I.P. Kohli, Advocate for the appellant.
Mr. D.C.S. Rawat, Senior Advocate, assisted by Ms. Bhavya Sharma, Advocate for the respondent no.1 & 2.
Mr. Neeraj Garg, Senior Advocate, assisted by Mr. Rajendra Arya, Advocate for the respondent no.3.
Mr. Pramod Bailwal, Advocate for the respondent no.4.
None is present for the respondent no.5.

Hon'ble Ravindra Maithani, J. (Oral)

Since both these appeals arise from a common judgment and award, they are being heard together and decided by this common judgment. For the sake of convenience, the parties shall be referred to as they are arrayed in Appeal From Order No. 255 of 2024.

2. Both these appeals are preferred against the common award dated 23.03.2024, passed in Motor Accident Claims Petition No. 72 of 2018, Smt. Mathura Devi and another Vs. Sri Sandeep Panwar and others and Motor Accident Claims Petition No. 221 of 2018, Smt. Preeti Rani Vs. M/s Manager Himgiri Nav Vidhyalaya, Sheeshamwara and others by the Motor Accident Claims Tribunal/6th Additional District Judge, Dehradun. By it, claimants in both the petitions have been granted compensation alongwith interest.

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

4. The respondent no.1 Smt. Preeti Rani filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (" the Motor Vehicles Act") on the death of her husband Ramesh Lal in a motor accident. Respondent no. 1 Smt. Preeti Rani is the widow of the deceased Ramesh Lal Tamta. This is basis of Motor Accident Claims Petition No. 221 of 2018, Smt. Preeti Rani Vs. M/s Manager Himgiri Nav Vidhyalaya, Sheeshamvara and others before the Motor Accident Claims Tribunal/6th Additional District Judge, Dehradun.

5. The respondent no.1 Smt. Mathura Devi and the respondent no.2 Vijendra Lal in Appeal From Order No. 254 of 2024 also filed claim petition under Section 166 of the Motor Vehicles Act on the death of Ramesh Lal in the same motor accident. Smt. Mathura Devi is mother and Vijendra Lal is brother of the deceased. It gave rise to Motor Accident Claims Petition No. 72 of 2018, Smt. Mathura Devi and another Vs. Sri Sandeep Panwar and others before the Motor Accident Claims Tribunal/6th Additional District Judge, Dehradun. Both these claim petitions were decided by the common judgment dated 23.03.2024.

6. Appeal From Order No. 255 of 2024 arises from MACP No. 221 of 2018 and Appeal From Order No. 254 of 2024 arises from MACP No. 72 of 2018. Both these Motor Accident Claim Petitions were consolidated and tried together.

7. On the basis of the pleadings of the parties, following issues were framed by the Tribunal:-

(i) Whether on 08.04.2018 at about 08:30 in the morning near place Kehri Village slope, Premnagar, District Dehradun, the driver of the Bus bearing Registration No. UK-07PA-0903 while driving the bus in a rash and negligent manner hit the motorcycle bearing Registration No. UK-07DB-4832 on the wrong side, as a result of which the motorcycle rider Ramesh Lal died due to injuries sustained by him?

(ii) Whether vehicle Bus bearing Registration No. UK-07PA-0903 was not being driven without valid document and valid driving licence? If yes, it effect?

(iii) Whether the claimants are entitled to any relief?

8. Parties led their evidence in support of their claims.

9. The Tribunal on issue no.1 held that the accident took place due to rash and negligent driving by the driver of the Bus bearing Registration No. UK 07PA 0903 (“the bus”).

10. Issue no.2 was not pressed by the parties. It was decided accordingly. Issue no. 3 is with regard to the compensation which was awarded by the impugned award.

11. As per the claim petition, on 06.04.2018, the deceased Ramesh Lal Tamta was proceeding from Suddowala, Dehradun to Police Line Dehradun on motorcycle bearing Registration No. UK 07 DB-4832, when near Kehri Village slope, the bus hit him from behind, due to which Ramesh Lal Tamta sustained serious injuries and subsequently, succumbed to it.

12. Learned counsel for the appellant submits that the bus driver was not negligent. He would submit that motorcycle driven by the deceased was running in front of the bus which suddenly stopped, due to which, the bus hit the motorcycle. He also submits that PW3, Jitendra Shah, the eyewitness that has been examined by the claimants is not reliable. He would refer to para 15 of the impugned award, wherein, the Tribunal has referred to the statement PW3 Jitendra Shah to the effect that police had reached at the spot, but they did not interrogate this witness.

13. On the other hand, learned senior counsel appearing for the respondents Smt. Mathura Devi and Vijendra Lal in AO No. 254 of 2024 submits that the impugned award is in accordance with law and accident took place due to rash and negligent driving of the bus driver and charge sheet has been filed against the driver of the bus.

14. It is admitted that the claimants in the claim petition did adduce evidence with regard to the rash and negligent driving by the bus driver. It is also admitted that the appellant did not

adduce any evidence in rebuttal. It is stated that the bus hit the motorcycle driven by the deceased from behind.

15. Undoubtedly, a vehicle driver from behind needs to be much cautious so as to avoid any collision with the vehicle running in front of it.

16. Admittedly, charge sheet was submitted against the driver of the bus. In the case of Meera Bai and others Vs. ICICI Lombard General Insurance Company Ltd. and another, (2025) SCC OnLine SC 992, the Hon'ble Supreme Court in para 4 observed as follows:-

> "**4**. As far as examining the eyewitness, such a witness will not be available in all cases. The FIR having been lodged and the charge sheet filed against the owner driver of the offending vehicle, we are of the opinion that there could be no finding that negligence was not established."

17. Even otherwise, negligence is an act as a result of carelessness. When due care is not taken, at times, it is termed as negligence. If the motorcycle was being driven in front of the bus, it was the responsibility of the bus driver to take due care and drive the bus at such distance that in case of sudden stoppage by the motorcycle, the bus could not collide with it. This care has not been taken. Hence, definitely the bus driver was negligent and this Court is of the view that the Tribunal did not err in law and fact while deciding the issue no.1.

18. It is also argued that the rate of interest has been made conditional which is not in accordance with law.

19. Learned Senior counsel for the respondent nos. 1 and 2/claimants in AO No. 254 of 2024 does not dispute that conditional

interest could not have been awarded, but he would submit that the amount of compensation has been directed to be kept in term deposits for different period which may deny the claimant the fruits of the award on time. They are major and would require money to meet their expenses.

20. The amount of compensation carries 9% annual interest as per para 1 of the order in the award. The condition that if within time the interest was not paid, the rate of interest @ 12% does not hold good. Accordingly, this condition requires modification.

21. The claimants i.e. respondent nos. 1 and 2 in AO No. 254 of 2024 and the respondent no.1 in AO No. 255 of 2024 are entitled to the compensation as awarded by the Tribunal alongwith interest @ of 9% per annum in the proportion as awarded in the award. But, there shall be no conditional interest. The amount of compensation need not be deposited in any term deposit.

22. Both the appeals are partly allowed.

23. The impugned award is modified to that extent only.

24. Let a copy of this judgment alongwith LCR be sent to the concerned court.

25. The statutory deposits made by the appellant be also remitted to the Tribunal concerned.

(Ravindra Maithani, J.)
31.10.2026

Jitendra