2026:AHC:207284

HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL MISC REVIEW APPLICATION No. - 182 of 2026

The New India Assurance Co. Ltd.

.....Applicant(s)

Versus

Smt Kiran And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Aditya Singh Parihar
Counsel for Opposite Party(s)	:	Neerja Singh

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Sri Aditya Singh Parihar, learned counsel for appellant and Smt. Neerja Singh, learned counsel for respondent.

2. The relief sought in the present Review Application is that this Hon'ble Court may graciously be pleased to allow the Review Application and review the judgment and order dated 21.8.2026 passed by this Court in First Appeal From Order No.1435 of 2002, to the limited extent of considering and adjudicating upon the specific ground raised by the applicant regarding the absence of evidence on record relating to the driving licence of the driver of the offending vehicle and the consequential liability of the applicant-Insurance Company, and to pass such other and further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

3. It was submitted that two appeals, being First Appeal From Order No. 1435 of 2002 (*The New India Assurance Company Limited, Allahabad v. Smt. Kiran and Others*) and First Appeal From Order No. No. 1811 of 2017 (*Smt. Kiran and Others v. The New India Assurance Company Limited and Another*), were decided by this Court by a common judgment dated 21.8.2023. First Appeal From Order No.1435 of 2002 was instituted by the applicant. The applicant is the insurer of the offending vehicle, and the said appeal was filed raising two grounds. One of the grounds related to the quantum of compensation, while the other related to the liability of the Insurance Company to satisfy the award.

4. In the impugned judgment dated 30.4.2002 passed in MACP No.151 of 1998, which was under challenge in both the appeals, the applicant had

raised a contention that fastening the entire liability to satisfy the award upon the Insurance Company was per se illegal, as the driver of the offending vehicle was not holding a valid and effective driving licence on the date of the accident. This particular issue relating to the driving licence was inadvertently left unconsidered and remained undiscussed in the judgment. It was submitted that the said ground had been raised both in the grounds of appeal and during the course of arguments.

5. Therefore, in the interest of justice, the present Review Application may be allowed and the judgment under review may be modified to the extent that the Insurance Company shall have liberty to recover the amount of compensation from the owner of the offending vehicle.

6. Per contra, learned counsel for the respondent-claimant submitted that the present Review Application, at this stage, is not liable to be heard, as no notice has been issued to respondent No. 4. It was, therefore, submitted that notice ought to be issued to respondent No. 4 before passing any order on the present Review Application.

7. Heard learned counsel for the parties and perused the judgment dated 21.8.2026 passed in both the appeals.

8. So far as the presence of respondent No. 4 for deciding the present Review Application is concerned, this Court, in its judgment dated 21.08.2026, has held the service upon him to be sufficient. From a perusal of the record as well as the judgment passed in MACP No. 151 of 1998, it is evident that the said respondent also remained absent during the proceedings and was proceeded ex parte. Therefore, this Court does not find it necessary to issue any further notice to respondent No. 4 before deciding the present Review Application.

9. It is evident from a perusal of the judgment dated 21.8.2026 that the ground raised by the applicant in the present Review Application was not considered or discussed. The said omission constitutes an error apparent on the face of the record and, therefore, requires consideration.

10. It is further evident from the proceedings before the learned Tribunal as well as from the record of the appeal that respondent No. 4, the owner of the offending vehicle, remained absent throughout the proceedings and that the driving licence of the driver of the offending vehicle was not produced.

Hence, fastening the liability upon the Insurance Company to satisfy the award without affording it liberty to recover the amount from the owner of the offending vehicle cannot be sustained.

11. Accordingly, the present Review Application is allowed. The judgment and order dated 21.08.2026 is modified to the aforesaid extent. The direction contained therein dismissing the appeal shall stand modified, and the said appeal shall instead be treated as partly allowed to the aforesaid extent, with liberty to the Insurance Company to recover the amount of compensation from the owner of the offending vehicle.

October 5, 2026
Mukesh

(Anil Kumar-X,J.)

Digitally signed by :-
MUKESH SRIVASTAVA
High Court of Judicature at Allahabad