UKHC010016082013

2026:UHC:10180

Judgment reserved on: 30.09.2026
Judgment delivered on: 04.11.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

04 November, 2026

Appeal From Order No. 77 of 2013

The New India Assurance Company Ltd. --Appellant

Versus

Km. Rinky Alias Simran and Others --Respondents

with

Appeal From Order No. 111 of 2013

Km. Rinki Alias Simran --Appellant

Versus

Jaswant Singh and Others --Respondents

Presence:

Mr. P.C. Maulekhi, learned counsel for appellant-Insurance Company in AO/77/2013 and for respondent No.3 in AO/111/2013.

Mr. Pawan Mishra, learned counsel for respondent No.1 in AO/77/2013 and for appellant in AO/111/2013.

Mr. Raunak Pant, learned counsel holding brief of Mr. Naresh Pant, learned counsel for respondent No.6-United India Assurance Company, through V.C.

Hon'ble Pankaj Purohit, J. (Oral)

These two connected appeals are arising out of the judgment and award dated 26.11.2012 passed by learned Motor Accident Claims Tribunal/1st Additional District Judge, Rishikesh, Dehradun, in MACP No. 22 of 2009, *Km. Rinki @ Simran v. Jaswant Singh and others*, whereby, compensation of ₹8,88,277/- along with interest @6% per annum from the date of filing of the claim petition till actual payment was awarded in favour of the claimant.

2. A.O. No.77 of 2013 has been preferred by appellant-New India Assurance Company Ltd., challenging award on the grounds of negligence, validity of the driving licence and the quantum of compensation, whereas, A.O. No. 111 of 2013 has been preferred by the claimant seeking enhancement of compensation. Since both appeals arise out of the same judgment and award, they are being decided by this common judgment.

3. The brief facts of the case are that on 05.12.2007, at about 7:30 p.m., the claimant, Km. Rinki @ Simran, was travelling with her mother in Vikram No. U.A.-07-C-8421 from Rishikesh towards Shyampur. When they reached near Kale-ki-Dhal, the claimant was getting down from the Vikram when a Tata Sumo bearing registration No. U.A.-07-C-8499, allegedly being driven rashly and negligently by its driver, hit the Vikram from behind. As a result, claimant sustained serious injuries, including injuries to her spine. She was initially taken to the Government Hospital, Rishikesh, where she remained admitted until 30.01.2008. Thereafter, she received treatment at hospitals in Muzaffarnagar and Delhi, including AIIMS, and underwent surgery for her spinal injuries. The claimant instituted a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of ₹16,40,000/- on account of the injuries, permanent disability, medical expenses and loss of earning capacity. The learned Tribunal, by judgment and award dated 26.11.2012, partly allowed the claim petition and awarded compensation of ₹8,88,277/- along with interest @6% per annum from the date of filing claim petition till actual payment is made. Aggrieved by the said award, the Insurance Company preferred A.O. No. 77 of 2013, while the claimant preferred A.O. No. 111 of 2013 seeking enhancement of compensation.

4. Respondent Nos.1 and 2 in the claim petition (respondent Nos.2 and 3 herein-Driver and owner of Vehicle No. UA 07 C 8499), in their written statement, denied the claimant's allegations and contended that the accident occurred due to the rash and negligent driving of the driver of the other vehicle. They further pleaded that the driver of their vehicle possessed a valid driving licence and that the necessary vehicle documents were valid.

5. Respondent No.3-New India Assurance Company Ltd.-insurer of Tata Sumo, disputed the claimant's allegations regarding the accident, age, income and injuries. It was pleaded that the accident occurred due to the negligence of claimant and the driver of the Vikram, and that the offending vehicle was being driven in violation of the policy conditions, including the requirement of a valid driving licence. The Insurance Company accordingly disputed its liability to pay compensation.

6. Respondent No. 6-the United India Assurance Company Ltd.-insurer of Vikram, also filed a written statement denying the claimant's allegations and disputing the claim regarding her age, income and the circumstances of the accident. It further disputed its liability to pay compensation.

7. Respondent Nos. 4, 5 and 7 in the claim petition (Owner/Driver, Ex-owners of the Tata Sumo vehicle No. UA 07 C 8421) did not file their written statements and were proceeded against ex parte.

8. On the basis of the pleadings of parties, learned Tribunal framed the following issues for determination:

1. *Whether on 05.12.2007, at about 7:30 p.m., near Kale-ki-Dhal, Rishikesh, the driver of Tata Sumo No. U.A.-07-C-8499, while driving rashly and negligently, hit Vikram No. U.A.-07-C-8421, causing serious injuries to the claimant, Km. Rinki @ Simran?*
2. *Whether, at the time of the accident, the driver of Tata Sumo No. U.A.-07-C-8499 was holding a valid and effective driving licence?*
3. *Whether the claimant is entitled to compensation and, if so, to what amount and from which of the opposite parties?*

9. While deciding Issue No.1, learned Tribunal considered the oral and documentary evidence adduced by the parties and found that the accident occurred due to the rash and negligent driving of Tata Sumo No. U.A.-07-C-8499, which hit Vikram No. U.A.-07-C-8421 from behind. The Tribunal found that claimant sustained serious injuries in

the accident and the evidence on record established the involvement of offending vehicle and negligence of its driver. Accordingly, the issue was decided in favour of the claimant.

10. While deciding Issue No. 2, learned Tribunal examined the evidence relating to driving licence of the driver of the offending Tata Sumo. Upon consideration of the material on record, Tribunal held that driver possessed a valid and effective driving licence on the date of accident. Accordingly, the issue was decided against Insurance Company.

11. While deciding Issue No.3, learned Tribunal assessed the claimant's monthly income at ₹5,000/- and considered the permanent disability sustained by her and its effect on her earning capacity. The Tribunal assessed disability at 50% and awarded ₹5,40,000/- towards loss of future earnings, ₹25,000/- towards pain and suffering, ₹30,000/- towards loss of income, ₹35,000/- towards loss of other services and ₹1,00,000/- towards future surgery. It further awarded ₹1,58,277/- towards medical expenses, taking the total compensation to ₹8,88,277/-. Interest at the rate of 6% per annum was also awarded. Accordingly, the claim petition was partly allowed.

12. Learned counsel for Insurance Company–New India Assurance Company Limited, submitted that the accident occurred due to the negligence of driver of Vikram No. U.A.-07-C-8421 and challenged the finding of Tribunal on Issue No. 1. It was further contended that Tribunal wrongly assessed the claimant's permanent disability at 50%, despite the disability certificate indicating 40%, and awarded excessive compensation under various heads, including pain and suffering, loss of income, medical expenses and future surgery. The claimant's age and income were also disputed. It was, therefore, prayed that the award be set aside or suitably modified.

13. Learned counsel for the claimant submitted that the compensation awarded by Tribunal was inadequate considering the serious spinal injuries and permanent disability sustained by her. It was contended that Tribunal failed to properly assess the impact of disability on her functional capacity and future earnings prospects, despite evidence of her monthly income of ₹5,000/-. The claimant sought enhancement of compensation towards loss of future earnings, pain and suffering, loss of income, medical expenses, future treatment and loss of amenities. Reliance was placed on ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***, and enhancement of compensation with interest @ 9% per annum was sought.

14. Having heard learned counsel for the parties and having perused the record, the principal questions for consideration are assessment of functional disability and the adequacy of compensation awarded by learned Tribunal. The Insurance Company has challenged the assessment of the claimant's disability at 50%, contending that the disability certificate records permanent physical disability of 40%. However, physical disability and functional disability are distinct concepts. As explained by the Hon'ble Supreme Court in ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***, the effect of an injury on earning capacity must be assessed with reference to the nature of claimant's occupation and the limitations caused by injury. In the present case, claimant suffered a burst fracture of the spine, resulting in permanent disability. She was working as a computer operator, an occupation that requires prolonged sitting and sustained physical endurance. The injury is, therefore, likely to affect her capacity to perform her occupational duties over an extended period. In these circumstances, Tribunal's assessment of functional disability at 50%, despite the medical certificate recording physical disability at 40%, cannot be said to be unjustified. The challenge raised by

Insurance Company on this ground does not warrant interference.

15. The next question concerns the enhancement of compensation sought by the claimant. Learned Tribunal assessed her monthly income at ₹5,000/-, thereby fixing her annual income at ₹60,000/-. It thereafter applied a multiplier of 18 and assessed functional disability at 50%, awarding ₹5,40,000/- towards loss of future earning capacity. However, no addition towards future prospects was made. The claimant was approximately 25 years of age at the time of accident and was employed as a computer operator in a company. Having regard to her age and employment, an addition of 40% towards future prospects is warranted, on the basis that her employment was on a fixed salary rather than permanent salaried employment, in accordance with the principles laid down by Constitution Bench of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680***.

16. Accordingly, the annual income of ₹60,000/- is enhanced by 40%, bringing it to ₹84,000/-. After applying the functional disability of 50%, annual loss of earning capacity comes to ₹42,000/-. Applying the multiplier of 18, compensation under the head of loss of future earning capacity is recalculated at ₹7,56,000/-, as against ₹5,40,000/- awarded by learned Tribunal. The compensation under this head is, therefore, enhanced by ₹2,16,000/-. The remaining amounts awarded under the other heads do not call for interference. Consequently, the total compensation stands enhanced from ₹8,88,277/- to ₹11,04,277/-. The claimant is entitled to interest @6% per annum, as awarded by the learned Tribunal.

17. Accordingly, A.O. No. 77 of 2013, preferred by the Insurance Company, is dismissed. A.O. No. 111 of 2013, preferred by the claimant, is partly allowed. The compensation awarded by the learned Tribunal is enhanced

from ₹8,88,277/- to ₹11,04,277/-. The Insurance Company shall deposit the balance compensation of ₹1,38,277/- and enhanced compensation of ₹2,16,000/- totaling ₹3,54,277/-, along with interest @6% per annum, within eight weeks from today. The amount of ₹7,25,000/- directed to be deposited under the interim order dated 26.02.2013, after deducting the statutory deposit of ₹25,000/- from ₹7,50,000/-, shall be duly accounted for, subject to verification of the actual deposit made. The amount deposited in the form of fixed deposit, along with accrued interest thereon, shall be released to the claimant. Any amount already withdrawn by the claimant shall be adjusted while determining the balance payable.

18. Let the T.C.R. be immediately sent back to the learned Trial Court for consignment.

19. Pending application(s), if any, stands disposed of.

(**Pankaj Purohit, J**.)
04.11.2026

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