2026:UHC:10948

# HIGH COURT OF UTTARAKHAND AT NAINITAL

## Appeal From Order No.249 of 2013

Smt. Maya Devi and Others

--Appellants

**Versus**

Reliance General Insurance Company Limited and others

--Respondents

**Presence:-**

Mr. M. S. Bisht and Mr. Jeevan Arya, learned counsel for the appellants.

Mr. Pulak Agarwal, learned counsel for the respondent/insurance company.

**Hon'ble Siddhartha Sah, J.**

By means of the present appeal, the claimants/appellants have prayed for allowing the appeal and modifying the judgment and order dated 08-03-2013 passed by the Motor Accident Claims Tribunal/Additional District Judge Haldwani, District Nainital in Motor Accident Claim Petition No. 104 of 2010 Smt. Maya Devi and others Vs. Reliance General Insurance Company and others and enhance the amount of award.

2. Facts of the case necessary for the adjudication of the instant appeal are narrated hereunder :-

i. The claim petition was filed under Section 166/140 of the Motor Vehicles Act, 1988 with the averments that on 26.3.10 at about 05:30 PM at Nagla Bypass, when the deceased Kamal alias Kailash Chandra Joshi was returning after duty on motorcycle No. UK-04G/4729, Kuldeep Singh was driving the motorcycle and the

deceased Kamal was pillion rider. As soon as they reached near Nagla Bypass, car No. DL-2CD/1129, was being driven by its driver/Opposite Party No. 2 at a very high speed and negligently, which hit the motorcycle badly, due to which Kamal and Kuldeep sustained extreme fatal injuries and they succumbed to the injuries. The claimants/respondents filed claim petition seeking compensation of Rs. 25,00,000/-.

3. Vide judgment and award dated 08-03-2013 the Motor Accident Claims Tribunal/Additional District Judge Haldwani, District Nainital awarded a total compensation of Rs. 8,71,664/- to the claimants along with interest 7% per annum, from the date of filing, till the date of payment and order.

4. Issue Nos.1 & 2 were decided together and the learned Tribunal came to the conclusion that the offending vechile was being driven rashly and negligently by its driver and there was no contributory negligence on the part of the motorcycle rider and thus proceed to grant compensation as indicated above.

5. Having heard learned counsel for the parties and having gone through the record, the only question that falls for determination before this Court is whether the claimants-appellants are entitled to any enhancement on account of the future prospects of the deceased's income?

6. On the one hand, learned counsel for the appellants would submit that the learned Tribunal erred

in not granting any addition towards the future prospects of the deceased's income, therefore, enhancement deserves to be made towards future prospects of the income of the deceased.

7. On the other hand, learned counsel for the respondent/insurer, Mr. Pulak Agarwal, would submit that no case is made out for enhancement, inasmuch as the appellants have not shown that they have sustained any loss of future income. He would further submit that since the deceased was working in a private company, no grounds or pleadings to that effect were raised in the claim petition.

8. After considering the rival submissions of the learned counsel for the parties and after considering the settled law on the subject as enunciated by the Hon'ble Supreme Court in the case of National Insurance Company Ltd. vs. Pranay Sethi & Ors., reported in (2017) 16 SCC 680, and, in particular, paragraph 59.4 thereof, as argued by the learned counsel for the appellant an addition of income should have been made at the rate of 40% of the income of the deceased. Paragraph 59.4 of the judgment in the case of Pranay Sethi (supra) is being extracted hereunder for ready reference:-

> *"59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

9. Since it is settled law that an addition of 40% towards future prospects is to be granted for deceased below 40 years and since the deceased in the present case was between 31-35 years, the appeal deserves to be allowed to that extent, and the impugned award deserves to be modified accordingly.

10. On the basis of the aforesaid determination, the compensation is being recomputed and quantified as follows:-

| | |
|---|---|
| (i) Income | = Rs. 5,706/- |
| (ii) + 40% future prospects | = Rs. 2,282.40/-<br>=Rs. 7,988.40/- x 12<br>= Rs. 95,860.80/- |
| (iii) Deduction 1/4th upon (ii) | = Rs. 23,965.20/-<br>= Rs. 71,895.60/- |
| (iv) Rs. 71,895.60/- multiplied by 16 | =Rs. 11,50,329.60/- |
| (v) Loss of estate | Rs.15,000/- |
| (vi) Loss of consortium | Rs.40,000/- |
| (vii) Funeral expenses | Rs.15,000/- |
| Grand Total (Final compensation awarded) | Rs. 12,20,329.60/- |

along with simple interest at the rate of 7% per annum as was awarded by the Motor Accident Claims Tribunal.

11. It is further made clear that the enhanced amount shall be apportioned in the manner suggested in the operative portion of the impugned judgment and order dated 08.03.2013.

12. The appeal is allowed in the aforesaid terms.

13. The Insurance Company is directed to deposit the said amount before the concerned Tribunal within 45

days from the date of production of the certified copy of this order after deducting the amount which has already been paid to the claimants or deposited earlier.

14. The registry is directed to remit the statutory amount to the Motor Accident Claims Tribunal concerned forthwith. The original records be also transmitted to the concerned Tribunal.

15. Appeal is decided in the aforesaid terms.

**(Siddhartha Sah, J.)**
28.11.2026

BS