

Reserved on:-05.06.2026

Delivered on:-18.06.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 74 of 2025

United India Insurance Co. Ltd.

.....Appellant

Versus

Smt. Kamlesh and Others

.....Respondents

Present:-

Mr. Naresh Pant (through video conferencing) and Mr. Raunak Pant, Advocates for the appellant.

Mr. Gaurav Singh, Advocate for the respondent nos. 1 to 4 ("the claimants").

JUDGMENT

Hon'ble Ravindra Maithani, J.

The instant appeal is preferred against the judgment and award dated 16.11.2024, passed in Motor Accident Claim Petition No. 141 of 2021, Smt. Kamlesh and others v. Vijaypal Sharma and others ("the claim petition"), by the court of Motor Accident Claim Tribunal/4th Additional District Judge, Haridwar ("the Tribunal"). By it, the respondent nos. 1 to 4 ("the claimants") have been awarded Rs. 16,38,700/- compensation.

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

3. The claimants preferred the claim petition under Sections 140 and 166 of the Motor Vehicles Act, 1988 ("the Act") seeking compensation on account of the death of Brijpal @ Birju ("the deceased"), who died on 09.08.2018 due to motor accident. According to the claim petition, the deceased Brijpal @ Birju had come to Haridwar for Kanwar. On 07.08.2018, at 9:00 a.m., he was sitting on a vehicle bearing Registration No.U.P. 19 T 1301 ("the first vehicle"), when another vehicle bearing Registration No. H.R.67 B 4546 ("the offending vehicle") being driven by the respondent no.6 in rash and negligent manner, hit the first vehicle from behind, due to which the

deceased died. He was 40 years of age, and was earning Rs. 8,20,000/- per year.

4. In the claim petition, the respondent no.5, the owner of the offending vehicle did file objections. According to it, the deceased did not die due to accident by the offending vehicle, instead, he died due to fall from the first vehicle. The respondent no.6, the driver of the offending vehicle, has filed objections in the similar line.

5. The appellant has also filed objections in the claim petition, and raised multiple issues, including that there was no post-mortem or inquest of the deceased. According to the appellant, the deceased was sitting in a wrong manner in the first vehicle, due to which he was hit from behind and sustained injuries. There were other averments also taken in its objections.

6. Based on the pleadings of the parties, four issues were framed by the Tribunal on 18.04.2022.

7. Issue no.1 relates to the effect as to whether the deceased died due to accident by the offending vehicle, when the deceased was sitting in the first vehicle. On this issue, the Tribunal extensively discussed the material on record, and concluded that the deceased died due to the accident by the offending vehicle, which was being driven in a rash and negligent manner.

8. On Issue no.2, the Tribunal held that the offending vehicle had all the valid documents including the driving license.

9. Issue no.3 was with regard to the non joinder of owner and Insurance Company of the first vehicle in the claim petition. On this issue, the Tribunal held that the claim petition is not bad due to non joinder of necessary parties.

10. Issue no.4 is with regard to compensation. After making all the calculation, the Tribunal fixed the compensation at Rs. 16,38,700/- with interest at the rate of 7 per cent. Aggrieved by it, the appellant/Insurance Company is now in appeal.

11. Learned counsel for the Insurance Company submits that the Tribunal has committed an error in awarding compensation to the claimants. He would raise the following arguments in his submission:-

- (i) There is no eye witness to the accident.
- (ii) According to the Doctor, the cause of death is cardiac arrest.
- (iii) There is no medical report that the deceased died due to accident.

12. Learned counsel for the appellant/Insurance Company also submits that in order to claim compensation, first and foremost, in such cases, the claimants have to establish that the cause of death is accident. There should be some material to suggest it. It is submitted that in this case, there is no material, which can even suggest that the deceased died due to the accident by the offending vehicle. He also submits that there has been no post-mortem or inquest of the deceased. On FIR and chargesheet, it is argued that, in fact, the driver of the offending vehicle has been acquitted in the criminal trial. Therefore, the impugned judgment and award is not in accordance with law, and it deserves to be set aside.

13. On the other hand, learned counsel for the claimants submits that the FIR of the incident was lodged, in which charge sheet has been filed. He submits that, in fact, the appellant has admitted the accident in its objections.

14. The proceedings for compensation, like the instant one, are not criminal in nature. In fact, they are not in the strict sense civil as well. But the evidence is appreciated to the standard of preponderance of probabilities. The claimants are not required to prove their case beyond reasonable doubt.

15. It is true that there has been no inquest or post-mortem of the deceased. PW1, in the instant case, that has been examined by

the claimants is claimant Kamlesh herself, who is the wife of the deceased. She had not witnessed the incident.

16. PW2, Sajjan Singh, lodged the FIR in the instant case. He was told that the driver of the offending vehicle did hit the first vehicle, in which the deceased was sitting.

17. PW3, Dr. Sumit Chahar, examined the deceased, and has stated that on 08.08.2018, at 07:29 hours, the deceased was admitted in the hospital where he was working on that date. It was told that the deceased sustained injuries in a motor accident. According to him, the cause of death was Cardio Pulmonary Arrest and Perforation Peritonitis. In his cross examination, PW3, Dr. Sumit Chahar, has stated that the deceased was brought to him after a road side accident.

18. PW4, Pawan Kumar, has also stated that on 07.08.2018, the deceased was brought to hospital in a serious condition.

19. The witnesses have stated that soon after the incident, when the deceased was taken to hospital, it was told that he sustained injuries in a road accident.

20. The respondent no.5 is the owner of the offending vehicle and the respondent no.6 is the driver of the offending vehicle. They both in their written statements, in Para No.2 of the additional plea, have stated that the deceased fell down from the first vehicle, due to which he sustained injuries. The question is as to how the respondent nos. 5 and 6 could tell as to how the deceased died? How were they watching it?

21. The appellant has filed its objection in the claim petition, and in Para No.23, it is categorically stated that the deceased was sitting in the first vehicle in a wrong manner, due to which he was hit from behind. Now this statement of the appellant, in Para No.23 of the written statement, proves the case of the claimants. It is the case of the claimants that the deceased was sitting in the first vehicle, when the offending vehicle, being driven in rash and negligent manner, hit

the first vehicle from behind. The appellant/Insurance Company has admitted that the deceased was sitting in the first vehicle when the first vehicle was hit from behind. Moreover, in the instant case, FIR was lodged, in which chargesheet was submitted and trial proceeded.

22. In the case of Meera Bai and Others v. ICICI Lombard General Insurance Company Ltd. and Another, 2025 SCC OnLine SC 992, in Para No.4, the Hon'ble Supreme Court has observed that in case there is charge sheet filed, no other evidence is required for negligence. In Para No.4, the Hon'ble Supreme Court observed as hereunder:-

“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.”

23. It has also been argued that in a criminal case against the driver of an offending vehicle, he has been acquitted. The appellant may not get benefit from it for the simple reason that in a criminal case, the standard of proof is beyond reasonable doubt, whereas, in the cases like the instant one, the standard is preponderance of probabilities.

24. In the instant case, it is consistent case of the claimants that the deceased was sitting in the first vehicle when the offending vehicle, being driven in a rash and negligent manner by the respondent no.6, hit him from behind. The appellant/Insurance Company in his objections to the claim petition in Para No.23 has admitted that the deceased was sitting in the first vehicle when he was hit from behind, though, according to the appellant/Insurance Company, the deceased was not properly sitting in the first vehicle.

25. In whatever manner a man sits in a vehicle, if some other vehicle hits him from behind, it cannot be said that the accident occurred due to improper sitting. The respondent nos. 5 and 6, who are the owner and driver of the offending vehicle, respectively, have

stated that the deceased fell from the first vehicle and he died, but, how come these respondents came to know about it? They have not elaborated it. In fact, it also substantiates the claim of the claimants.

26. In view of the foregoing discussion, this Court is of the view that, in fact, the Tribunal has rightly held that the accident took place due to rash and negligent driving of the offending vehicle being driven by the respondent no.6, due to which the deceased sustained injuries, and subsequently, he died. No other point has been raised. Therefore, this Court is of the view that the finding recorded by the Tribunal is based on the evidence available on record, and it does not warrant any interference. Accordingly, the appeal deserves to be dismissed.

27. The appeal is dismissed.

(Ravindra Maithani, J)
18.06.2026

Ravi Bisht