UKHC010017442013
2026:UHC:8213
Judgment reserved on:-02.09.2026
Judgment delivered on:-11.09.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No.208 of 2013

Smt. Poonam Devi and others ....Appellants

Versus

The New India Assurance
Company and another ....Respondents

Presence:-
Mr. Mohd. Suhail, learned counsel holding brief of Mr. Sandeep Kothari, learned counsel for the appellants.
Mr. T.A. Khan, learned Senior Advocate assisted by Ms. Jasmeen Wahid, learned counsel holding brief of Mr. Aditya Kumar Arya, learned counsel for the respondent no.1.

Hon'ble Pankaj Purohit, J.

This appeal against order is being preferred against the judgment and award dated 18.05.2012, passed by learned Motor Accidents Claim Tribunal/District and Sessions Judge, Tehri-Garhwal in M.A.C.P. No.11 of 2011, *Smt. Poonam Devi and others Vs. The New India Assurance Company and another.*

2. The brief facts of the case are that on 17.01.2008, at about 08:00 P.M., near Village Padagali, District-Tehri Garhwal, a Tata Spacio bearing registration No.UA-7M-5553 met with an accident, resulting in the death of Laxman Singh. The deceased was owner of the said vehicle and was travelling therein at the time of the accident. His wife, mother and three minor children filed a claim petition seeking compensation of ₹11,25,000/-. The learned Motor Accident Claims Tribunal, Tehri-Garhwal, vide judgment and award dated 18.05.2012, dismissed the claim petition. Aggrieved by the said judgment and award,

the claimants have preferred the present appeal.

3. The respondent-insurance company in written statements denied the claim for want of knowledge and contended that no injury report/postmortem report had been produced by the claimants. It was further pleaded that since the deceased himself was owner of the vehicle, he was not a third party and was, therefore, not entitled to claim compensation under the policy. The claim petition was accordingly liable to be dismissed.

4. Respondent no.2, Makan Singh, in written statements admitted the identity of the deceased and that he was the owner of the vehicle, but denied that he had driven the vehicle rashly or negligently. No oral evidence was led on behalf of the respondents.

5. Based on the pleadings of the parties the Tribunal framed the following issues:

1. Whether the accident in question took place at about 08:00 P.M. on 17.01.2008 near Village Padagali, Police Station-Ghansali, District-Tehri Garhwal, due to rash and negligent driving of Tata Spacio No.UA-07M-5553 by its driver, resulting in the death of Sri Laxman Singh S/o Late Sri Mor Singh, as alleged?

2. Whether the driver of the vehicle was not duly licensed, causing breach of the terms and conditions of the insurance contract, and the owner of the vehicle did not possess a valid permit and fitness certificate in violation of the provisions of the Motor Vehicles Act, 1988 as alleged by opposite party No.1 in paragraphs 23 and 24 of its written statement? If so, its effect?

3. To what compensation are the appellants entitled and from whom?

a. While deciding Issue no.1 the Tribunal held that the accident occurred due to rash and negligent driving of the vehicle by respondent no.2, Makan Singh, resulting in the death of Laxman Singh. The Tribunal relied upon the testimony of PW-2, Kesar Singh, who was treated as an eyewitness, and accordingly decided the issue in favour of the claimants.

b. While deciding Issue no.2 the Tribunal found that the relevant documents, including the registration certificate, permits, fitness certificate and driving licence, were on record and were not disputed by the insurance company.

Accordingly, no breach of the terms and conditions of the insurance policy was found and the issue was decided against the insurance company.

c. While deciding Issue no.3 the Tribunal held that the deceased himself was the owner of the vehicle and was not a third party. Relying upon the decisions referred to in its judgment i.e., *Dhanraj v. New India Assurance Co. Ltd.,* reported in *(2004) 8 SCC 553*, it held that the insurance company was not liable to indemnify the deceased owner for his own death. Consequently, the claim petition was dismissed without assessing the amount of compensation.

6. Learned counsel for the appellants-claimants submitted that the deceased Laxman Singh died in the accident dated 17.01.2008 while travelling in his Tata Spacio bearing registration No.UA-07M-5553. It was pleaded that the vehicle was being driven by respondent no.2, Makan Singh, in a rash and negligent manner, resulting in the accident and death of the deceased. On this basis, compensation of ₹11,25,000/- was claimed from the respondents.

7. The learned counsel for the respondent-Insurance Company submitted that the claim petition was liable to be dismissed. It was contended that the deceased himself was the owner of the vehicle and, therefore, could not be treated as a third party for the purposes of indemnification under the insurance policy. It was also

submitted that the deceased, being the owner of the vehicle, could not seek indemnification from the Insurance Company for his own death and, therefore the claim itself was not maintainable. Learned counsel submitted that the learned Tribunal had rightly considered these aspects and rightly dismissed the claim petition.

8. Having heard learned counsel for the parties and having perused the record, this Court has considered the rival submissions. The finding of the learned Tribunal on Issue No.1, holding that the accident occurred due to rash and negligent driving of Tata Spacio bearing registration No.UA-7M-5553 by respondent no.2, resulting in the death of Laxman Singh, is based upon the evidence available on record and does not call for interference. The finding on Issue no.2, whereby no breach of the terms and conditions of the insurance policy was found, also does not warrant interference.

9. The principal question which arises for consideration is whether the claim of the legal representatives of the deceased could have been rejected merely on the ground that the deceased was himself the owner of the vehicle. The learned Tribunal has rejected the claim principally by relying upon the case of *Dhanraj v. New India Assurance Co. Ltd.,* reported in *(2004) 8 SCC 553* and *Oriental Insurance Co. Ltd. v. Jhuma Saha,* reported in *(2007) 9 SCC 263*, on the premise that the owner of the vehicle is not a third party and, in the absence of specific coverage, the insurer would not be liable for the owner's own death. There can be no quarrel with the aforesaid proposition; however, the terms of the particular insurance policy are required to be examined. In the present case, the policy is a “Passengers Carrying Commercial Vehicle Policy B Package” in respect of Tata Spacio having seating capacity of nine persons. Significantly, the policy schedule specifically records a premium of ₹2,115/- towards

"Liability to Passenger(s) 9". The policy separately provides for Workmen Compensation in respect of one employee. Thus, the policy specifically contemplated liability towards passengers travelling in the vehicle.

10. It is also undisputed that the deceased was not driving the vehicle at the time of the accident. The vehicle was being driven by respondent no.2, Makan Singh, while Laxman Singh was travelling therein. Therefore, merely because the deceased happened to be the owner of the vehicle, his status as a passenger/occupant cannot be disregarded, particularly when the policy itself specifically provides coverage for passengers. The judgment in Dhanraj (supra) is distinguishable on its own facts, as in that case there was no material showing that the policy specifically covered the risk death and injury to the owner. In the present case, on the contrary, the policy contains an express provision relating to liability towards nine passengers and a separate premium was charged for such liability. The subsequent judgment of the Hon'ble Supreme Court in the case of *National Insurance Co. Ltd. v. Smt. Thungala Dhana Laxmi*, reported in *2026 SCC OnLine SC 1486*, also supports the proposition that the coverage under a comprehensive/package policy has to be given effect to in accordance with its terms where the owner is travelling as an occupant of the insured vehicle. The relevant paragraph is quoted herein below:

> "34. It is well settled that in matters concerning motor accident claims, Courts should not adopt a hyper-technical approach. As rightly submitted by the claimant-respondents, in accordance with the circular of the IRDA dated 16.11.2009, insurance companies are liable to compensate for any occupant in the vehicle under a comprehensive/package policy. Consequently, we find no reason to disagree with the reasoning adopted by the High Court. The present Civil Appeal is dismissed to that extent."

11. Consequently, the learned Tribunal erred in

treating the ownership of the deceased as, by itself, sufficient to non-suit the claimants.

12. The appellants-claimants are, therefore, entitled to compensation. The deceased was aged 33 years at the time of the accident. In the absence of reliable documentary evidence establishing his actual income, his notional income is required to be assessed with reference to the prevailing position at the time of the accident. Having regard to the principles laid down by the Hon'ble Supreme Court in the case of *Laxmi Devi v. Mohammad Tabbar,* reported in *(2008) 12 SCC 165*, the monthly income of the deceased is assessed at ₹3,000/-, which comes to ₹36,000/- per annum. Since the deceased was 33 years of age, an addition of 40% towards future prospects is liable to be made in terms of *National Insurance Co. Ltd. v. Pranay Sethi,* reported in *(2017) 16 SCC 680.* Thus, the annual income after addition of future prospects i.e., ₹14,400 (40% of annual income of the deceased) comes to ₹50,400/-. The deceased left behind five dependants, namely, his wife, mother and three minor children. Accordingly, in terms of *Sarla Verma v. Delhi Transport Corporation,* reported in *(2009) 6 SCC 121*, one-fourth of the income is liable to be deducted towards the personal and living expenses of the deceased. The annual contribution towards the family would, therefore, be ₹37,800/-. The deceased being 33 years of age, the appropriate multiplier is 16. The loss of dependency thus comes to ₹6,04,800/- (₹37,800 × 16).

13. The claimants are also entitled to compensation under the conventional heads. The wife is entitled to spousal consortium, the three children to parental consortium and the mother to filial consortium. Accordingly, a sum of ₹40,000/- each is awarded towards consortium to the five claimants, amounting to ₹2,00,000/-. A further sum of ₹15,000/- towards loss of estate and ₹15,000/- towards funeral expenses is awarded. Thus, the

total compensation payable to the claimants comes to ₹8,34,800/- (₹6,04,800/- + ₹2,00,000/- + ₹15,000/- + ₹15,000/-).

14. Accordingly, the appeal is allowed. The judgment and award dated 18.05.2012 passed by the learned Motor Accident Claims Tribunal/District & Sessions Judge, Tehri Garhwal in MACP No.11 of 2011, *Smt. Poonam Devi and others Vs. The New India Assurance Company and another*, is hereby set aside.

15. The claimants shall be entitled to a total compensation of ₹8,34,800/- along with interest at the rate of 7% per annum from the date of filing of the claim petition till realization. Respondent no.1-Insurance Company shall deposit the aforesaid amount before the learned Tribunal within a period of eight weeks from today. Learned Claims Tribunal shall release the amount so deposited by the respondent-Insurance Company to the appellants/claimants forthwith.

(**Pankaj Purohit, J**.)
11.09.2026

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