

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Appeal Against Order No. 149 of 2019**

National Insurance Co. Ltd. .....Appellant

Versus

Prabhat Kukreti and others .....Respondents

Present:-

Mr. Deepak Rawat, Advocate for the appellant  
Mr. Sandeep Kothari, Advocate for the respondents.

With

**Appeal Against Order No. 407 of 2018**

National Insurance Co. Ltd. .....Appellant

Versus

Smt. Sulochana Dangwal and others .....Respondents

Present:-

Mr. Deepak Rawat, Advocate for the appellant  
Mr. Sandeep Kothari, Advocate for the respondents.

**Hon'ble Ravindra Maithani, J. (Oral)**

Since both these appeals basically arise from one and the same accident, they are heard together and decided by this common judgment.

2. Appeal Against Order No. 407 of 2018 has arisen out of judgment and order dated 22.06.2018, passed in MACP No. 05 of 2017 Smt. Sulochana and others Vs. Jaiprakash Dabral and others, by the Motor Accident Claims Tribunal/District Judge, Tehri Garhwal("the first claim petition"),.

3. Appeal Against Order No. 149 of 2019 has arisen out of judgment and order dated 03.01.2019, passed in MACP No. 07 of 2018

Prabhat Kukreti Vs. Jaiprakash Dabral and others, by the Motor Accident Claims Tribunal/District Judge, Tehri Garhwal("the second claim petition"),.

4. Both these claim petitions arises out of an accident, which took place on 11.10.2017 at 3:00 p.m. According to the claim petitions, on that date and time, the deceased Rajesh Dangwal was riding a motorcycle bearing Registration No. UK09-7238 ("the motorcycle"), when the claimant in the second claim petition Prabhat Kukreti, his cousin, was a pillion rider. At a place called Ratnogad, a truck bearing Registration No. UK07CC0797 ("the truck") was being driven in a rash and negligent manner and it hit the motorcycle. Consequent to it, Rajesh Dangwal sustained injuries and died at the spot, whereas Prabhat Kukreti, claimant in the second claim petition sustained grievous injuries. The legal representatives of Rajesh Dangwal filed the first claim petition, which was objected to by the owner of the truck, driver of the truck as well as by the appellant, who happens to be the Insurance Company. After hearing the parties, the first claim petition was allowed and the legal representatives of the deceased Rajesh Dangwal were awarded Rs.5,96,500/- compensation alongwith interest, which has been challenged by the Insurance Company in Appeal Against Order No. 407 of 2018.

5. The injured Prabhat Kukreti filed the second claim petition, which was also objected to by the respondents i.e. Driver, Owner and the Insurance Company of the truck, but the second claim petition was allowed and total Rs. 3,75,000/- alongwith interest were granted to the injured Prabhat Kukreti.

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

7. Learned counsel for the appellant in both these appeals submits that the accident is not as a result of any act done by the driver of the truck, instead it is a result of the negligence committed by the deceased Rajesh Dangwal while driving the motorcycle. It is argued that while driving the motorcycle, the deceased Rajesh Dangwal slipped and sustained injuries. Subsequently, he died. In that process, the claimant Prabhat Kukreti also sustained injuries. In addition to it, it is also argued that the Insurance Company of the motorcycle has not been made the party. He restricts his arguments to these two points only.

8. Learned counsel for the respondents submits that, in fact, in both these claim petitions, injured Prabhat Kukreti has been examined. He has deposed as to how did the accident take place and finding has been given that the accident took place as a result of the negligence on the part of the driver of the truck. The appellant has not adduced any evidence to rebut as to what the claimant Prabhat Kukreti has deposed.

9. Insofar as the making the Insurance Company of the motorcycle as a party is concerned, it is submitted that there is a finding recorded that there was no negligence on the part of the rider of the motorcycle, who was deceased Rajesh Dangwal. It was not necessary to make the Insurance Company of the motorcycle as a party.

10. In the first claim petition i.e. MACP No. 05 of 2017, one of the issues is with regard to the negligence is issue no.1, which is as follows:-

- “1. Whether the deceased Rajesh Dangwal died due to injuries received in an accident alleged to have occurred on 11.10.2017 at 3:00 p.m. at place Ratnogad, Chamba Dharasu motor marg within Patwari Chauki Bhaldiyana,

Tehsil Kandisaud, District-Tehri Garhwal when the driver of vehicle No. UK07CC-0797 rashly and negligently hit the motorcycle No. UK09-7297 of deceased, if so, its effect.”

11. Similarly, in second claim petition, which has been filed by the injured Prabhat Kukreti, issue no.1 is with regard to the rash and negligence, which is as follows:-

“1. Whether the injured Prabhat sustained injuries in an accident occurred on 11.10.2017 at 3:00 p.m. at place Ratnogad, Chamba Dharashu motor marg, due to rash and negligent driving of Truck No. UK07CC-0979, which hit the motorcycle No. UK09-7238 whereby he sustained injuries, if so, its effect.”

12. In fact, claimants have adduced evidence with regard to the negligence and the star witness is Prabhat Kukreti, the injured. He has stated as to how the accident took place and after examining the testimony of injured Prabhat Kukreti and other witnesses and considering other facts, the Tribunal in first claim petition has observed that **“therefore, the claimants have succeeded to prove that the accident took place due to rash and negligent driving of the offending truck bearing registration No. UK07CC-0797, which hit the motorcycle of the deceased resulting the death of motorcyclist Sri Rajesh Dangwal. The claimants have also proved that there was no negligence on the part of the motorcyclist. It is also proved that the deceased has sustained grievous hurt in the accident and he ultimately died on the spot due to the accident. Accordingly the issue no.1 is decided in favour of the claimants.”**

13. There is another aspect of the matter. How could the Insurance Company say as to how the accident took place? They have not adduced any evidence. It is stated that even the driver or owner of

the truck has not adduced any evidence. The best witness was the injured witness Prabhat Kukreti. He has stated so. His evidence remains uncontroverted, insofar as, the cause of accident is concerned.

14. In the second claim petition, filed by the injured Prabhat Kukreti, the Tribunal has held that, in fact, the accident took place due to rash and negligent driving of the truck driver. As stated, the testimony of the injured Prabhat Kukreti has not been controverted. This Court has no reason to disturb this finding with regard to the rash and negligent driving of the driver of the truck, which resulted into an accident, in which the deceased Rajesh Dangwal lost his life and injured Prabhat Kukreti sustained injuries.

15. Insofar as, making the Insurance Company of the motorcycle as a party, it loses its significance because there was no negligence on the part of the Rajesh Dangwal, who was riding a motorcycle at the relevant time. Therefore, this Court does not see any reason to make any interference in these appeals. Accordingly, both these appeals deserve to be dismissed.

16. Both these appeals are dismissed.

17. The statutory deposits made by the Insurance Company be remitted to the concerned Motor Accident Claims Tribunal. The appellant shall deposit the entire amount of award along with interest within 30 days. In case, deposit is not made within the stipulated time, the appellant Insurance Company shall be liable to pay interest @ 9% per annum.

(Ravindra Maithani, J)  
19.02.2026