STATE CONSUMER DISPUTES REDRESSAL COMMISSION UTTARAKHAND
DEHRADUN

Date of Admission: 20.04.2023
Date of Final Hearing: 18.09.2026
Date of Pronouncement: 24.09.2026

SC/5/A/59/2023

National Insurance Company Limited
Regional Office, Rajpur Road
Dehradun through its Regional Manager
(Through: Sh. Rajesh Kumar Devliyal, Advocate)
…… Appellant

Versus

1. Smt. Chandrakala Devi W/o late Vinod Kumar Kohli
For self and on behalf of minor daughters
Km. Arushi Kohli and Km. Pavni Kohli
R/o Village Sayuni, P.O. Ancholi
P.S. and District Pithoragarh
Presently R/o Verma Niwas, Krishnapuri
Pithoragarh
(Through: Sh. Pradeep Bartwal, Advocate)

2. Canara Bank, Pithoragarh
through its representative Sh. R.P. Sharma
Chandra Bhawan, Siltham
P.O. Siltham, District Pithoragarh, Uttarakhand
(Through: None)

3. Manager, Nainital Motors Private Limited
Authorised Dealer, Maruti Suzuki India Limited
5th Km., Rampur Road, Jeetpur Negi
Haldwani, District Nainital
(Through: None)
…… Respondents

Coram:
Ms. Kumkum Rani, President
Mr. B.S. Manral, Member

ORDER

(Per: Ms. Kumkum Rani, President):

This appeal under Section 41 of the Consumer Protection Act, 2019 has been directed against the impugned judgment and order dated

28.02.2023 passed by learned District Consumer Disputes Redressal Commission, Pithoragarh (hereinafter to be referred as "The District Commission") in consumer complaint No. 09 of 2018, styled as Smt. Chandrakala Devi Vs. National Insurance Company Limited and others, wherein and whereby the consumer complaint was allowed and the appellant / opposite party Nos. 1 & 2 (insurance company) was directed to pay IDV of the vehicle in question (ANR4XS8 Maruti Suzuki Alto 800) amounting to Rs. 2,40,383/-, although the actual IDV of the vehicle as per the insurance policy was Rs. 2,40,385/-, to respondent No. 1 / complainant on account of damage to the vehicle in the accident alongwith Rs. 2,00,000/- towards Personal Accident cover for owner / driver, in all, Rs. 4,40,383/- together with interest @6% p.a. from the date of filing of the consumer complaint till actual payment.

2. The facts giving rise to the present appeal, in brief, are, as such that during his lifetime, after availing loan facility from respondent No. 2 / opposite party No. 3 – Canara Bank, Pithoragarh, late Vinod Kumar Kohli, the deceased husband of respondent No. 1 / complainant – Smt. Chandrakala Devi, had purchased ANR4XS8 Maruti Suzuki Alto 800 from respondent No. 3 / opposite party No. 4 – Nainital Motors Private Limited on 31.12.2017. The said vehicle was got insured by the deceased with the appellant / opposite party Nos. 1 & 2 (insurance company) for the period from 31.12.2017 to 30.12.2018 under Package Policy (Commercial Vehicle – Passenger Carrying) bearing No. 35101031176341123462 at an IDV of Rs. 2,40,385/-. Under the insurance policy, the complainant was named as nominee. After availing loan of Rs. 2,20,000/- from the financier bank, the deceased had booked the subject vehicle vide invoice No. 40783 dated 30.12.2017 and paid the premium amount of Rs. 22,465/- alongwith fee

for temporary registration of the vehicle and also completed the requisite formalities for taking / plying the vehicle on road. Thereafter, on 30.12.2017, the deceased together with his friend went from Pithoragarh to Haldwani and on 31.12.2017, after taking delivery of the vehicle, was bringing the same to Pithoragarh. However, in the way at about 9:30 p.m., the vehicle met with an accident at Danaula, Village Assembly, Gogna, P.S.; Tehsil and District Pithoragarh. In the said accident, the deceased as well as his friend – Sh. Hoshiyar Singh sustained grievous injuries, on account whereof, they breathed their last at the spot. They both were possessing valid and effective driving license for driving the vehicle. After performing last rites of the deceased, Sh. Pankaj Kumar, brother-in-law lodged F.I.R. of the accident with P.S. Pithoragarh on 20.01.2018. However, the insurance company denied the Own Damage claim as well as Personal Accident cover for owner / driver, thereby resorting to deficiency in service. Thus, the consumer complaint was instituted by respondent No. 1 / complainant before the District Commission.

3. The appellant – insurance company filed written statement before the District Commission and pleaded that at the time of accident, the deceased was driving the vehicle without valid documents; registration; fitness; permit etc. and at the time of accident, one passenger was travelling in the vehicle. The deceased did not complete the formalities of registration and permit of the vehicle and without permit and deposition of tax, the vehicle was being used as a taxi. On the above counts, the Own Damage claim was turned down. It was also submitted that on the date of accident, the vehicle was not registered with the Registering Authority. The driver was not holding valid and effective driving license to drive the subject vehicle. On investigation,

it came to light that the temporary registration of the vehicle was got done after the accident with the Registering Authority, Haldwani, being valid for the period from 04.01.2018 to 03.02.2018. Therefore, the consumer complaint is liable to be dismissed.

4. The respondent No. 2 – bank submitted written statement before the District Commission, thereby stating that the deceased was granted term loan of Rs. 2,20,000/- on 30.12.2017 for purchasing the vehicle and after completion of requisite formalities, the sanctioned loan amount was paid to Nainital Motors Private Limited on 30.12.2017 through RTGS. The vehicle was purchased by the deceased, for being used as a taxi.

5. The respondent No. 3 / opposite party No. 4 did not file any written statement before the District Commission, hence per order dated 16.02.2021 passed by the District Commission, their opportunity of filing the written statement was closed.

6. The District Commission, after hearing learned counsel for the contesting parties and after taking into consideration the material available on record, allowed the consumer complaint vide impugned judgment and order dated 28.02.2023 in the above terms. Feeling aggrieved by the impugned judgment and order, the insurance company has preferred the instant appeal before this Commission as an appellant.

7. We have heard learned counsel for the appellant as well as learned counsel for respondent No. 1 / complainant and perused the record. Vide order dated 27.08.2026, it was directed that the appeal shall proceed ex-parte against respondent No. 3. On the date of

arguments, i.e., 18.09.2026, none turned up on behalf of respondent No. 2 inspite of several calls, hence the appeal was heard ex-parte against respondent No. 2 too.

8. The claim of the complainant was repudiated by the appellant – insurance company through letter dated 23.04.2018, copy whereof is Paper No. 39, on the ground that at the time of accident, the driver – late Vinod Kumar Kohli was not holding a valid and effective driving license to drive a commercial vehicle (taxi) and that the vehicle was being plied without a valid permit. There was no mention in the repudiation letter that since on the date of accident, the vehicle was not registered with the Registering Authority, hence the insurance company is not liable to settle / pay the claim.

9. It is well settled that if the letter of repudiation did not mention an aspect, the same could not be taken as a stand when the matter is decided. In the case of **M/s Galada Power and Telecommunication Ltd. Vs. United India Insurance Co. Ltd. and another etc.** reported in **IV (2016) CPJ 5 (SC)**, the insurer, in its repudiation letter, only stated that the claim does not fall under the purview of transit loss. It was held by Hon'ble Apex Court that by positive action, the insurer has waived its right to advance the plea that claim is not entertainable because conditions enumerated in duration clause were not satisfied. In view of above law, the insurance company can not be allowed to take the stand beyond what is stated in the repudiation letter. Relevant portion of paragraph No. 12 of the above-mentioned judgment is reproduced below:

> "The letter of repudiation dated 20th September, 1999, which we have reproduced hereinbefore, interestingly, does not whisper a single word with regard to delay or, in fact, does not refer at all to the duration clause. What has been stated in the letter of repudiation is that the claim lodged by the complainant does not fall under the purview of transit-loss because of the subsequent investigation report. It is evincible, the insured had taken cognizance of the communication made by the appellant and nominated a surveyor to verify the loss. Once the said exercise has been undertaken, we are disposed to think that the insurer could not have been allowed to take a stand that the claim is hit by the clause pertaining to duration. In the absence of any mention in the letter of repudiation and also from the conduct of the insurer in appointing a surveyor, it can safely be concluded that the insurer had waived the right which was in its favour under the duration clause. In this regard, Mr. Mukherjee, learned senior counsel appearing for the appellant has commended us to a decision of High Court of Delhi in **Krishna Wanti v. Life Insurance Corporation of India**[1], wherein the High Court has taken note of the fact that if the letter of repudiation did not mention an aspect, the same could not be taken as a stand when the matter is decided. We approve the said view."

10. Thus, in view of above law pronounced by Hon'ble Apex Court, the ground of non-registration of the vehicle at the time of accident, can not be agitated by the insurance company. However, since the said ground goes to the matter, we feel it our bounden duty to take the same into consideration and record finding thereupon.

11. There is no dispute that the vehicle was purchased by the deceased husband of the complainant on 31.12.2017 from respondent No. 3 at Haldwani and after purchase of the vehicle, when the complainant was taking the same to Pithoragarh, it met with an accident. The copy of temporary certificate of registration of the vehicle issued by Registering Authority, Haldwani, is on record, being Paper No. 37, which clearly depicts that the temporary registration certificate of the vehicle was valid from 04.01.2018 to 03.02.2018. Needless to say that the temporary registration certificate of the vehicle would have been issued by the Registering Authority, Haldwani, upon payment of requisite fee / charges by the owner of the vehicle as well as completion of requisite formalities. Rule 47 of the Central Motor Vehicles Rules (CMVR), 1989, requires the owner of a new motor vehicle to apply for registration in Form 20 to the local registering authority within seven days of taking delivery of the vehicle. As is stated above, the vehicle was purchased on 31.12.2017 and the temporary registration certificate of the vehicle having been issued by the Registering Authority, Haldwani on 04.01.2018, proves beyond any shadow of doubt that the owner of the vehicle had applied for registration of the vehicle within seven days of taking delivery of the vehicle. In the temporary certificate of registration of the vehicle, it has also been mentioned that the vehicle shall be permanently registered at Pithoragarh ARTO, Uttarakhand. Thus, it can not be said that on the date of accident, the vehicle was not registered. Besides it, this ground was not made basis for repudiation of the claim. Even otherwise, after taking the delivery of the vehicle, the deceased was taking the vehicle to his residence at Pithoragarh, as has also been approved by the surveyor and loss assessor of the insurance company. Thus, the judgments cited by learned counsel for the appellant – insurance

company on the issue of effect of non-registration of the vehicle at the time of accident, have no bearing on the facts and circumstances of the instant case and the insurance company can not take shelter of Section 39 of the Motor Vehicles Act, 1988, which deals with necessity for registration.

12. So far as the question of holding valid and effective driving license by the deceased – late Vinod Kumar Kohli at the time of accident is concerned, the copy of driving license No. UK05-7012/Pth/10 of late Vinod Kumar Kohli issued by the Licensing Authority, Pithoragarh, is Paper No. 38 on record. In the claim repudiation letter, the insurance company has itself admitted that at the time of accident, the deceased was driving the subject vehicle. By way of the said driving license, the deceased / license holder was made authorised to drive Private Motor Car & Motorcycle only. The driving license was valid for the period from 01.04.2010 to 01.04.2027, as has also been mentioned by the surveyor in his report. The vehicle in question being driven by the deceased at the time of accident was ANR4XS8 Maruti Suzuki Alto 800, the gross vehicle weight whereof is 1,185 kilograms.

13. “Light Motor Vehicle” has been defined under Section 2(21) of the Motor Vehicles Act, 1988, which states that, “light motor vehicle” means a transport vehicle or omnibus, the gross vehicle weight of either of which or a motor car or tractor or road-roller, the unladen weight of any of which, does not exceed 7,500 kilograms. As is stated above, the gross vehicle weight of the vehicle in question was 1,185 kilograms, which is less than 7,500 kilograms. Hence, the vehicle in question fell under the category of “light motor vehicle” and the deceased was fully authorised to drive the same.

14. Hon'ble Apex Court in the case of **Mukund Dewangan Vs. Oriental Insurance Company Limited** reported in **(2017) 4 Supreme Court Cases 663**, has held that "light motor vehicle" would include a transport vehicle as per the weight prescribed in Section 2(21) r/w Sections 2(15) and 2(48). A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg, would be a light motor vehicle. It was further held that holder of a driving license to drive class of "light motor vehicle" as provided in Section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. That is to say, no separate endorsement on the license is required to drive a transport vehicle of light motor vehicle class as enumerated above.

15. So far as issue of vehicle being plied without a permit is concerned, a commercial vehicle permit can be granted only after the vehicle has obtained its official registration certificate (RC) from the Regional Transport Office (RTO). Since the vehicle met with an accident prior to its permanent registration, there was no occasion for the owner / deceased to have obtained permit for plying the vehicle as a taxi / commercial vehicle or to deposit the requisite fee for the grant of permit. Here, it would not be out of place to mention here that there is nothing conclusive having been brought on record from the side of the insurance company to establish that at the time of accident, the vehicle was being used as a taxi, i.e., for hire and reward. Sh. Girish Joshi, surveyor & loss assessor appointed by the insurance company in his spot / final survey report dated 23.03.208, copy whereof is Paper Nos. 30 to 36, has opined that two persons died in the accident, one was owner / driver and another was Sh. Hoshiyar Singh S/o Sh. Umed Singh. In para 3 of the consumer complaint, the complainant has

specifically stated that on 30.12.2017, the deceased alongwith his friend had gone to Haldwani for taking delivery of the vehicle and on 31.12.2017, after taking delivery of the vehicle, when they were coming back to Pithoragarh, the accident took place. The contents of para 3 of the consumer complaint, have not been specifically denied by the insurance company in para 2 of its written statement, stating the use of the insured vehicle at the relevant time as a taxi, but no reliable evidence has been adduced on record by the insurer to substantiate the same, hence it is not proved that at the time of accident, the insured vehicle was being used as a taxi.

16. The net result of the above discussion is that there has certainly been deficiency in service on the part of the insurance company in repudiating the genuine and legitimate claim of the complainant. So far as quantum is concerned, the District Commission has awarded an amount of Rs. 2,40,383/-, although the IDV of the vehicle was to the tune of Rs. 2,40,385/-. The surveyor in his report has clearly mentioned that the repairing cost of the vehicle comes to Rs. 2,71,920/- (after deducting the policy excess of Rs. 500/-), which exceeds 75% of the IDV of the vehicle. Thus, the District Commission was completely justified in awarding IDV of the vehicle, though not as per the actual amount mentioned in the policy. The surveyor in his report has also mentioned that the vehicle fell in a hillside ditch nearly about 50 mts. from the road and stopped in lower road, causing damages to the vehicle. In the peculiar facts and circumstances of the case, it would be in the fitness of things if the insurance company is held entitled to the salvage of the vehicle. The District Commission was also justified in awarding Rs. 2,00,000/- towards Personal Accident cover for owner / driver.

17. Under the present scenario, the District Commission was completely justified in allowing the consumer complaint per impugned judgment and order. We do not find any scope to interfere with the impugned judgment and order passed by the District Commission. The appeal being bereft of merit, is liable to be dismissed.

18. Appeal is dismissed. No order as to costs of the appeal. However, the appellant – insurance company is held entitled to the salvage of the insured vehicle and can very well recover the same from the accident spot. The respondent No. 1 / complainant is directed to hand over the documents of the insured vehicle to the appellant – insurance company and also execute Letter of Subrogation in favour of the appellant – insurance company.

19. A copy of this Order be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986 / 2019. The Order be uploaded forthwith on the website of the Commission for the perusal of the parties. A copy of this Order be sent to the concerned District Commission for record and necessary information.

20. File be consigned to record room along with a copy of this Order.

(**Ms. Kumkum Rani**)
President

(**Mr. B.S. Manral**)
Member

Pronounced on: 24.09.2026