



2026:AHC:18461

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 7 of 2026

Lal Ji Yadav

.....Appellant(s)

Versus

National Insurance Co. Ltd. And 9 Others

.....Respondent(s)

Counsel for Appellant(s)	: Amit Kuma Sinha, Amit Kumar Sinha, Deepali Srivastava Sinha
Counsel for Respondent(s)	: Mohd. Asim Zulfiquar, Radhey Shyam

A.F.R.

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. Ms. Deepali Srivastava Sinha, learned counsel for the owner appellant, learned counsel for the respondent Insurance Company and Sri Abhishek Tripathi, Advocate holding brief of Mohd. Asim Zulfiquar, learned counsel for the claimants-respondents are present.

2. The instant appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the owner of the offending three wheeler No.UP-70-AT-3092 against the impugned judgment and award dated 21.07.2009, subsequently corrected on 29.07.2009, passed by the Motor Accident Claims Tribunal/District Judge, Kaushambi in M.A.C.P. No.70 of 2006 (Smt. Naghama Begam vs. Lal Ji Yadav and another) whereby, for the untimely death of Khaliq Ahmad @ Achchhe in a road accident that occurred on 09.04.2009, a compensation of Rs.3,89,000/- alongwith interest @ 6% per annum has been awarded to the claimant, which was ordered to be indemnified initially by the insurer of the offending vehicle but later on a right of recovery was given to it from the owner of the offending vehicle.

3. Learned counsel for the appellant submitted that since the offending vehicle was not having a valid permit and the offending driver had a valid and effective driving license to drive LMV(Private) on the date of the accident, hence, the liability to pay compensation was imposed on the owner of the tempo, which is erroneous. Learned counsel submitted that since the laden weight of the offending vehicle was only 975 kg, which was below 3000 kg, as such, no permit was required under Section 66 of

the Motor Vehicles Act, 1988. It was further submitted that the offending driver Bablu Yadav possessed a driving license, which was valid and effective for driving LMV(Private) vehicle but the Tribunal has erred in concluding that the driving license having an endorsement to drive commercial vehicle was required. Learned counsel submitted that since the laden weight of the vehicle was below 3000 kg., as such, driver having a valid LMV(Private) license could have legally driven the offending vehicle for which no endorsement for driving transport vehicle was required, but this was not considered by the Tribunal. Learned counsel submitted that in view of the judgment of the Apex Court in the case of ***Bajaj Alliance General Insurance Co. Ltd. vs Rambha Devi and others (2025) 3 SCC 95***, the offending driver was having a valid and effective driving license to drive the vehicle. With these submissions, it was prayed that the appeal be allowed and the liability to pay compensation be imposed on the insurer of the offending vehicle.

4. Per contra, learned counsel for the respondent-Insurance Company has very fairly conceded that since the weight of the offending goods vehicle was below 3000 kg., as per Section 66 of the Motor Vehicles Act, 1988, a permit was not required for plying it. He further conceded that since the driver was having a license to drive LMV(Private) vehicle, as such, an endorsement for driving transport vehicle was not required at the time of the accident, as held by the Constitution Bench of the Apex Court in the case of ***Bajaj Alliance General Insurance Company Limited*** (supra).

5. I have heard learned counsel for the parties and perused the impugned judgment and documents submitted with the appeal.

6. The Constitution Bench of the Apex Court in the case of ***Bajaj Alliance General Insurance Company Limited*** (supra), after analyzing whether a holder of LMV license can drive all the vehicles below the weight of 7,500 kg, held as under:-

"181.1. A driver holding a licence for light motor vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7500 kg, is permitted to operate a "transport vehicle" without needing additional authorisation under Section 10(2)(e) of the MV Act specifically for the "transport vehicle" class. For licensing purposes, LMVs and transport vehicles are not entirely separate classes. An overlap exists

between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

181.2. The second part of Section 3(1), which emphasises the necessity of a specific requirement to drive a “transport vehicle”, does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

181.3. The additional eligibility criteria specified in the MV Act and the MV Rules generally for driving “transport vehicles” would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7500 kg i.e. “medium goods vehicle”, “medium passenger vehicle”, “heavy goods vehicle” and “heavy passenger vehicle”.

181.4. The decision in Mukund Dewangan (2017) [Mukund Dewangan v. Oriental Insurance Co. Ltd., (2017) 14 SCC 663] is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and the MV Rules were not considered in the said judgment."

7. It is apparent from the perusal of Section 66 (3)(i) of the Motor Vehicles Act, 1988, that a permit is not required where the gross vehicle weight of a goods vehicle does not exceed 3000 kg. The appellant has annexed the copy of the registration certificate of the offending vehicle, which has not been disputed by learned counsel for the respondent-Insurance Company, which discloses that the laden weight of the offending vehicle was only 975 kg and further the vehicle was, a goods vehicle. In view of the fact that the laden weight of the vehicle was below 3000 kg., a permit was not required for plying it, but unfortunately, the Tribunal has held otherwise. Accordingly, it is held that no permit was required for plying the offending tempo No.UP-70AT-3092 in public place.

8. It is further evident that since laden weight of the offending auto was below 7,500 kg, and it was a light motor vehicle (LMV), as per Section 2 (21) of the Motor Vehicles Act, 1988, hence, for driving it, only license having an endorsement of LMV(Private) was sufficient. The driver was

not required to possess the driving license for driving transport vehicle or commercial vehicle, in the light of the law laid down by the Constitution Bench of the Apex Court in ***Bajaj Alliance General Insurance Company Limited*** (supra). It is not disputed that the offending driver Bablu Yadav was possessing a driving license, which was valid for driving LMV private vehicle from 17.01.2004 till 16.01.2024. In view of this, the Tribunal has certainly erred in concluding that the offending driver was not having a valid and effective driving license on the date of the accident and further permit was required for plying the offending vehicle. Accordingly, this appeal has merit and deserves to be allowed.

9. Accordingly, the appeal is allowed.

Order on Cross Objection No. 52 of 2021:-

1. Heard learned counsel for the claimants-cross objector and learned counsel for the respondent-Insurance Company.
2. As per office report, there is a delay of 1625 days in filing the instant cross objection.
3. Learned counsel for the claimants-cross objector submitted that since the claimants were illiterate and were not aware that for enhancement of compensation, a cross objection was required to be filed, as such, the cross objection could not be filed within time.
4. Learned counsel further submitted that since a cross appeal of the owner is pending, as such, the delay in filing the cross-objection, be condoned.
5. Per contra, learned counsel for the respondent-Insurance Company submitted that if this Court is of the opinion that the delay in filing the cross objection is liable to be condoned, then this Court may not award interest on the enhanced compensation, if any, awarded by this Court, for the period of delay.
6. I have heard learned counsel for the parties and perused the impugned judgment.
7. Since, the cross appeal of the owner was pending, which has been decided only today, as such, the delay in filing the cross objection is liable

to be condoned and is accordingly, condoned but certainly the claimants are not entitled for interest on the period of delay.

8. Learned counsel for the claimants-cross objector submitted that the deceased Khaliq Ahmad @ Achchhe was aged about 35 years at the time of the accident, who was supporting his family of 10 persons, including himself, who was in the occupation of selling Chicken and eggs, who was earning Rs.6,000/- per month but still the Tribunal has not awarded any compensation towards the future prospects of the deceased, whereas the claimants are entitled to get it @50%, as per **Rule 220-A of the UP Motor Vehicle Rules, 1998**. It was further submitted that since there were nine dependents of the deceased, only 1/5th amount was required to be deducted towards the personal expenses of the deceased but the Tribunal has deducted 1/3rd amount, which requires reduction. It is further submitted that the Tribunal has awarded less amount of compensation towards non-pecuniary heads and has also awarded less interest on compensation @ 6% per annum whereas, as per **Rule 220-A** of the above Rules, interest @ at-least 7% per annum should have been awarded to the claimants. With these submissions, it was prayed that the cross-objection preferred by the claimants be allowed and enhanced compensation be paid to them.

9. Per contra, learned counsel for the respondent-Insurance Company submitted that the Tribunal has awarded right amount of compensation to the claimants, which does not warrant any enhancement from this Court in exercise of its appellate jurisdiction. It was further submitted that the claimants should not be awarded any interest on the enhanced amount of compensation awarded by this Court, since, cross-objection was filed belatedly.

10. I have heard learned counsel for the parties and perused the impugned judgment and documents submitted with the appeal.

11. **Rule 220-A of the UP Motor Vehicle Rules, 1998** w.e.f. 26.09.2011, mandates that when the deceased was aged below 40 years on the date of accident, the claimants are also entitled to compensation on future prospects @50% of his income.

12. The Constitution Bench of the Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi & Ors. (2017) 16 SCC 680** has

awarded loss of consortium of Rs.40,000/- and Rs.15,000/- each towards loss of estate and funeral expenses, which is to be enhanced at the rate of 10% after every three years.

13. The Apex Court in the case of ***Magma General Insurance Company Ltd. Vs. Nanu Ram @ Chuhru Ram & others, (2018) 18 SCC 130***, has awarded Rs.40,000/- each towards spousal consortium, parental consortium and filial consortium.

14. Further, the Apex Court in the case of ***Rahul Ganpatrao Sable vs Laxman Maruti Jadhav (Dead) through LRS and Others (2023) 13 SCC 334***, held as under:-

32. *In the present case, MACT had granted a meagre amount of Rs 5000 towards loss of consortium. However, the High Court granted a total amount of Rs 70,000 as consolidated amount under all conventional heads, which included loss of consortium, loss of estate and funeral expenses. In Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205], the Constitution Bench of this Court had provided that all dependents should be separately awarded towards loss of consortium and had actually awarded Rs 40,000 to each of the dependents. Considering the same, an amount of Rs 40,000 each is awarded to each of the four dependents towards loss of consortium.*

(emphasis supplied)

15. A Division Bench of this Court in ***FAFO No.2581 of 2011, Sushil Kumar & Another vs. M/S Sampark Lojastic Pvt. Ltd. & Another***, decided on 26.04.2017 has held that even if the accident occurred prior to 26.09.2011, the claimants are entitled to compensation on future prospects as per amended Rule 220-A of the UP Motor Vehicle Rules, 1998, since it is a beneficial legislation.

16. As per decision of the Apex Court in the case of ***Pranay Sethi*** (supra) read with ***Rule 220-A of the U.P. Motor Vehicle Rules, 1998***, the claimants were entitled to get compensation towards future prospects of the deceased @ 50% of his income, but the Tribunal has not awarded any amount towards it, which is erroneous. It is further evident that since there are nine dependents of the deceased, which included his wife, six minor

children and parents, only a deduction of 1/5th was required to be made towards the personal expenses of the deceased, keeping in view the judgment of the Apex Court in the case of **Pranay Sethi** (supra) but the Tribunal has deducted 1/3rd amount, which requires reduction. It is further apparent that the claimants are entitled to enhanced amount of compensation under non-pecuniary heads, keeping in view the judgment of the Apex Court in the case of **Pranay Sethi** (supra), **Magma General Insurance Co. Ltd.**(supra) and **Rahul Ganpatrao Sable** (supra). It is further evident that the Tribunal has awarded interest @ 6% per annum on the compensation whereas, as per **Rule 220-A of the U.P. Motor Vehicle Rules, 1998**, the claimants were entitled to get it @ 7% per annum.

17. In view of the above legal position, the claimants are entitled to the following compensation, which is redetermined as under:-

S.No.	Compensation Heads	Amount Awarded in Rs.	In Accordance with.
1.	Monthly income of deceased	3,000/-	<i>As determined by tribunal</i>
2.	Annual Income of deceased	3,000X12=36,000/-	<i>As determined by tribunal</i>
3.	Less 1/5 deduction towards self expenses (since there were nine dependents)	7,200/-	<i>Pranay Sethi (supra)</i>
4.	Net annual income on which claimants were dependent	28,800/-	<i>Pranay Sethi (supra)</i>
5.	Add future prospects @50% since deceased was aged about 35 years	14,400/-	<i>Rule 220-A of UP Motor Vehicle Rules,1998</i>
6.	Total annual dependency of claimants on deceased	43,200/-	<i>Rule 220-A of UP Motor Vehicle Rules,1998</i>

7.	Multiplier applied since age of deceased was about 35 years	16	Pranay Sethi (supra)
8.	Total loss of dependency to the claimants	43,200 x 16 =6,91,200/-	Pranay Sethi (supra)
9.	Loss of consortium @Rs.40,000/-each, increased by 10% after every 3 years (9 claimants)	48,400X9=4,35,600/-	Pranay Sethi (supra), Magma General Insurance Co. Ltd. (supra) and Rahul Ganpatrao Sable (supra)
10.	Loss of estate @ Rs.15,000/- increased by 10% after every 3 years.	18,150/-	Pranay Sethi (supra)
11.	Funeral Expenses @ Rs.15,000/- increased by 10% after every 3 years.	18,150/-	Pranay Sethi (supra)
12.	Total compensation	11,63,100/-	

18. In this way, the claimants are entitled to total compensation of Rs.11,63,100/- alongwith interest @ 7% per annum from the date of filing the claim petition, till the date of actual payment of compensation, which is to be indemnified by the insurer of offending three wheeler No.UP-70-AT-3092. The owner of the above offending vehicle is not required to pay any compensation either to the claimants or the Insurance Company.

19. Since the cross-objection was filed with delay of 1625 days, the claimants are not entitled to any interest on the enhanced amount of compensation awarded by this Court for the period of delay i.e. from 13.10.2016 to 25.03.2021.

20. Accordingly, the appeal preferred by the owner i.e. F.A.F.O. No.7 of 2026 and cross-objection preferred by the claimants are allowed.

The impugned judgment and award of the tribunal dated 21.07.2009 and 29.07.2009 is modified to the above extent.

21. The insurance company is directed to deposit the enhanced amount of compensation alongwith interest within a period of two months in the concerned tribunal. The tribunal is at liberty to apportion the enhanced amount of compensation proportionately among the claimants, keeping in view their age and dependency.

22. Office is directed to remit back the statutory deposit made by the owner at the time of filing of the appeal to the concerned Tribunal, forthwith. The Tribunal is directed to refund this amount along with accrued interest to the owner of the offending vehicle, without any delay.

(Sandeep Jain,J.)

January 27, 2026
Jitendra