



2026:AHC:14562

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 103 of 2026

United India Insurance Co. Ltd.

.....Appellant(s)

Versus

Sonu Kumar And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Sushil Kumar Mehrotra
Counsel for Respondent(s)	:	

A.F.R.

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. The instant appeal has been filed by the insurer of the offending Fortuner vehicle No.DL-1-N-8711 under Section 173 of the Motor Vehicles Act, 1988 against the impugned judgment and award dated 08.10.2025 passed by the Motor Accident Claims Tribunal, Ghaziabad in M.A.C.P. No.108 of 2018 (Sonu Kumar vs. Sachin Joshi and others), whereby for the injuries sustained by the claimant in a road accident that occurred on 04.12.2017, a compensation of Rs.5,20,100/- along with interest @ 7.5% per annum has been awarded to the claimant, which has been ordered to be indemnified by the insurer of the above offending vehicle No.DL-1-N-8711.

2. Learned counsel for the appellant-Insurance Company submitted that the claimant was driving his motorcycle No.UP-14-BP-4276 in a rash and negligent manner at the time of the accident, who tried to overtake the offending Fortuner vehicle from the left side, which was impermissible. Learned counsel submitted that the accident occurred due to the sole negligence of the claimant, but the Tribunal has concluded that the claimant was having only 30% contributory negligence in the accident, which was erroneous. Learned counsel submitted that in the facts and circumstances and keeping in view the site plan prepared in the criminal case as well as the oral evidence on record, it was proved that the accident occurred due to the sole negligence of the claimant. It was further submitted that the claimant was reimbursed for the expenses of treatment, since he was having a mediclaim policy, but the Tribunal has ignored this

fact and has held that the reimbursement made to the claimant in pursuance of his mediclaim policy was not liable to be deducted from the compensation payable to the claimant, which is erroneous. Learned counsel in support of his submission relied upon the case law of ***National Insurance Company Limited vs. Akber Badsha, 2016 (1) T.A.C. 305 (D.B. Kerala)***. It was further submitted that since the claimant has already been reimbursed the medical expenses, since he was having a mediclaim policy, as such, if again, he is reimbursed the expenses of medical treatment, then it will amount to bonanza, which is impermissible. With these submissions, it was prayed that the appeal be admitted for hearing.

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

4. The claimant Sonu Kumar examined himself as PW-1 and Vinod Kumar as PW-2, whereas the claim petition was not contested by the owner and driver of the offending vehicle and it was decided ex-parte against them. Further, the Insurance Company has not led any oral evidence.

5. PW-1 deposed that on 04.12.2017 at about 12:30 p.m., he was driving his motorcycle No. UP-14-BP-4276 from Pari Chowk, Noida to Jewar. When he reached ahead of Kheda Bridge and was crossing the canal bridge, his motorcycle was hit from behind by vehicle No. DL-1-N-8711, which was being driven in a rash and negligent manner, as a result of which he suffered grievous injuries. He was taken, with the help of other persons and the police, to Kailash Hospital, Jewar for treatment. He further deposed that an F.I.R. regarding the accident was registered at Police Station Rabupura, District Gautambuddhnagar, being Case Crime No. 283 of 2017, under Sections 279, 337, 338, and 427 I.P.C.

6. In his cross-examination, he deposed that he was hit by the offending vehicle from behind, that he was driving his motorcycle on his left side of the road, and that the offending vehicle did not blow the horn. He further deposed that after the accident he became unconscious, and while in an unconscious state, he was admitted to Kailash Hospital, Jewar, from where he was referred to Kailash Hospital, Sector-27, Noida. He further deposed that the F.I.R. was lodged by his brother on 04.12.2017.

7. PW-2 Vinod Kumar is the person, who registered the F.I.R. regarding the accident, who is the brother of the claimant, who admitted in cross-examination that he was not an eye witness of the accident and had merely registered the F.I.R. on the basis of what was told to him by the claimant.

8. It is apparent that the owner and driver of the offending vehicle have not contested the claim petition, which has been decided ex-parte against them and further they have not appeared in the witness box to contradict the claim. It is further evident that even the insurer has not led any independent evidence to contradict the claim and after investigation in the criminal case, a charge sheet has been submitted against the offending driver Sachin Joshi, under Sections 279, 337, 338 and 427 I.P.C. on which cognizance has been taken by a competent criminal court.

9. The Apex Court in the case of ***ICICI Lombard General Insurance Company Limited vs. Rajani Sahoo and Others (2025) 2 SCC 599***, has held as under:-

"8. As regards the reliability of charge-sheet and other documents collected by the police during the investigation in motor accident cases, this Court in Mangla Ram v. Oriental Insurance Co. Ltd. [(2018) 5 SCC 656 : (2018) 3 SCC (Civ) 335 : (2018) 2 SCC (Cri) 819 : 2018 INSC 311] , held in para 27, thus : (SCC p. 672)

"27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 and 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] , noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard

of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the tribunal.”

9. It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal.

10. In the contextual situation it is relevant to refer to a decision of this Court in *Mathew Alexander v. Mohd. Shafi* [(2023) 13 SCC 510 : 2023 INSC 621] , this Court held thus : (SCC p. 514, para 12)

“12. ... A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in *Dulcina Fernandes v. Joaquim Xavier Cruz* [(2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] which has referred to the aforesaid judgment in *Bimla Devi* [*Bimla Devi v. Himachal RTC*, (2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101] .”

11. Thus, there can be no dispute with respect to the position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said

that looking into such documents for the aforesaid purpose is impermissible or inadmissible.

12. It is also a fact that the appellant had attributed that the respondent claimants connived with police and fraudulently prepared the charge-sheet. The contention is that the vehicle insured with the appellant was not involved in the accident and the accident had occurred solely due to the rash and negligence on the part of the deceased. But the evidence on record would reveal that pursuant to the filing of the final report, cognizance was taken for rash and negligent driving which resulted in the death of Udayanath Sahoo."

(emphasis supplied)

10. The Apex Court in the case of **Ranjeet and another vs. Abdul Kayam Neb and another** 2025 SCC OnLine SC 497, has held as under:-

"4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver."

(emphasis supplied)

11. The Apex Court in the case of **Jiju Kuruvila & Ors. vs. Kunjujamma Mohan & Ors. (2013) 9 SCC 166**, held as under:-

"20.5. The mere position of the vehicles after accident, as shown in a scene mahazar, cannot give a substantial proof as to the rash and negligent driving on the part of one or the other. When two vehicles coming from opposite directions collide, the position of the vehicles and its direction, etc. depends on a number of factors like the speed of vehicles, intensity of collision, reason for collision, place at which one vehicle hit the other, etc. From the scene of the accident, one may suggest or presume the manner in which the accident was caused, but in the absence of any direct or corroborative evidence, no conclusion can be drawn as to whether there was negligence on the part of the driver. In absence of such direct or corroborative evidence, the Court cannot give any specific finding about negligence on the part of any individual.

20.6. The post-mortem report, Ext. A-5 shows the condition of the deceased at the time of death. The said report reflects that the deceased had already taken meal as his stomach was half-full and contained rice, vegetables and meat pieces in a fluid with strong smell of spirit. The aforesaid evidence, Ext. A-5 clearly suggests that the deceased had taken liquor but on the basis of the same, no definite finding can be given that the deceased was driving the car rashly and negligently at the time of accident. The mere suspicion based on Ext. B-2 "scene mahazar" and Ext. A-5 post-mortem report cannot take the place of evidence, particularly, when the direct evidence like PW 3 (independent eyewitness), Ext. A-1 (FIR), Ext. A-4 (charge-sheet) and Ext. B-1 (FI statement) are on record."

12. The Apex Court in the case of **Prabhavati & Ors. vs. Managing Director, Bangalore Metropolitan, Transport Corporation** 2025 SCC OnLine SC 455, held as under:-

"10. We are unable to agree with the view taken by the High Court on the 25% contributory negligence of the deceased and 75% upon the driver of the bus. We find ourselves to agree with the view taken by the Tribunal on this issue. The Tribunal rightly, after considering the evidence on record and on perusal of the Ex. P3 Spot Mahazar, came to the conclusion that there wasn't any sufficient evidence on record, indicating that the accident occurred due to negligent driving on the part of the deceased, and after considering the oral evidence of P.W.1, held the cause of the accident to be rash and negligent on the part only of the offending vehicle.

11. Thus, in our considered view, the contributory negligence taken by the High Court at 25% of the deceased is erroneous. We advert to the principles laid down in *Jiju Kuruvila v. Kunjuamma*(supra) where it was held that in the absence of any direct or corroborative evidence on record, it cannot be assumed that the accident occurred due to the rash and negligent driving of both the vehicles. This exposition came to be followed in *Kumari Kiran v. Sajjan Singh* (2015) 1 SCC 539. In the present case, therefore, on an allegation simpliciter, it cannot be presumed that the accident occurred due to rash and negligent driving of both vehicles, for having driven at high speed."

13. The Apex Court in the case of ***Prem Lal Anand & Ors. vs Narendra Kumar & Ors. (2024) 9 SCC 441***, held as under:-

13. In the attending facts and circumstances, merely because a person was attempting to overtake a vehicle, cannot be said to be an act of rashness or negligence with nothing to the contrary suggested from the record. Further, it is the appellant claimants who lost a member of their family. Not only was the appellant-claimant, Prem Lal Anand doing an act which is an everyday occurrence on the road that is overtaking a vehicle, but resultantly suffered extensive injuries himself. That apart, it has also been proved that the offending vehicle was driven rashly and negligently. These two factors taken together lead us to the conclusion that the finding of contributory negligence against Appellant 1 was erroneous and unjustified. Consequently, compensation awarded on this count has to be revised.

(emphasis supplied)

14. It is apparent from the impugned judgment that the Tribunal has considered the site plan prepared in the criminal case, which disclosed that the accident occurred on Yamuna Expressway, when the claimant was trying to overtake the offending vehicle from the left side. The Tribunal concluded that from the technical inspection report of the Fortuner vehicle, it was evident that its left side rear light, rear bumper, rear side and rear wind glass was damaged whereas, the front mudguard, headlight, both indicator and both side mirror of the motorcycle was damaged in the accident and on this basis, the Tribunal concluded that the accident occurred when the claimant was trying to overtake the Fortuner from the left side and it collided from the rear side of the offending vehicle. In these circumstances, the Tribunal concluded that there was contributory negligence in the ratio of 30:70 of the claimant and the driver of the Fortuner, which is an erroneous finding because the Tribunal was not supposed to decide the factum of contributory negligence on the basis of site plan prepared in the criminal case.

15. It is well settled that merely on the basis of site plan, it cannot be inferred how an accident occurred and what was the negligence of a particular driver in the accident. It is well settled that the claim petition is to be decided on the basis of evidence adduced before the Tribunal, but

the Tribunal has been unnecessarily influenced in this case from the site plan. Even if, it is assumed that the site plan was disclosing the correct factual position, even then, judicial notice of this fact can be taken that accident occurred on Yamuna Expressway on which it is permissible for the vehicles to overtake from the left side of another vehicle, as such, merely on this ground that the claimant was trying to overtake the Fortuner vehicle from left, it cannot be inferred that there was contributory negligence on the part of the claimant, who was driving his motorcycle at the time of the accident. On Expressway, the drivers are supposed to remain vigilant and a vehicle can overtake from both the left and right side, as such, the driver of the Fortuner vehicle should have been vigilant when the claimant was trying to overtake his vehicle from the left and should not have swerved his vehicle towards the left, which caused the accident and had the Fortuner driver kept his vehicle straight, the accident may not have occurred. Be that as it may, since the claimant has not filed any cross appeal to challenge the conclusion of contributory negligence on his part, as such, merely on the basis of site plan, the quantum of contributory negligence attributed to the claimant, cannot be increased any further.

16. It is further evident that the claimant claimed that he has spent an amount of Rs.6,47,572/- in his treatment, for which he remained admitted in Kailash Hospital, Noida. The claimant in his cross-examination deposed that he has spent about Rs.15 lacs on his treatment and also admitted that an amount upwards of Rs.4,00,000/- has been reimbursed to him because he was having a mediclaim policy with an Insurance Company. It is pertinent to mention here that the claimant has neither filed any disability certificate nor Tribunal has awarded any compensation towards it.

17. Before the Tribunal also it was submitted on behalf of the learned counsel for the Insurance Company that since a payment of about Rs.4,00,000/- has been made to the claimant on account of having a mediclaim policy, as such, he was not entitled to get this amount but this contention of the Insurance Company was rejected by the Tribunal on the ground that since the claimant paid premium towards the mediclaim policy under a contract, as such, the amount reimbursed to him on account of that policy cannot be adjusted from the compensation payable to it by

the Insurance Company.

18. This Court is required to examine whether the above reasoning of the Tribunal is correct or not?

19. The Division Bench of the Kerala High Court in ***National Insurance Company Limited vs. Akber Badsha*** (supra) has considered the issue of reimbursement of medical expenses made to the claimant and has concluded that if a party has obtained only a lesser amount under a mediclaim policy taken by him by paying premium separately, then the balance amount, if any, can be claimed in a claim petition to be preferred before the Tribunal with reference to the statutory coverage. It was held by the Division Bench that if a portion of the sum assured under the mediclaim policy had already been satisfied, the claimant will be entitled to coverage only in respect of the balance sum assured during the remaining period/tenure of the policy. It was further held that if the claimant meets with any other accident or suffers from any other disease, in the meanwhile, he cannot aspire anything more.

20. In the above referred case, both the policies i.e. the insurance of the offending vehicle and the mediclaim policy were issued by one and the same Insurance Company and since the Insurance Company had already made a payment of Rs.78,418/- towards the treatment expenses, as claimed under the mediclaim policy, it was pleaded by the Insurance Company that it was not required to pay the above amount twice and it should be set off. It is further evident that the claimant failed to submit original bills before the tribunal, since they were already submitted to the insurance company in the mediclaim.

21. A Full Bench of the High Court of Bombay in ***New India Assurance Company Limited vs. Dolly Satish Gandhi and another***, 2025 SCC Online Bom 752, has considered whether the amount received by a claimant under a mediclaim policy or under a medical insurance policy is liable to be deducted from the amount of compensation payable to a claimant under the head medical expenses in proceedings under Section 166 of the Motor Vehicles Act, 1988 and has come to the following conclusion:

10. In *Helen C. Rebello* [(1999) 1 SCC 90], a Bench of two learned

Judges of the Supreme Court considered the question as to whether the life insurance money received on account of a demise of the insured was liable to be deducted from the amount of compensation that the claimants - family members were entitled to receive under the Act of 1939. After referring to various decisions including the decision in Bradburn (supra), it was held that the amount of insurance is payable only on the contingency referred to in the contract and if the contingency of injury or death does not happen, the insured is the gainer as it receives more under premium than to pay on maturity of the policy. In case the contingency occurs, the claimant is the gainer as he receives the amount even before paying the full premium and the gain is to the proportion of the balance unpaid premium, whether on account of injury or death. In paragraph 35 of the said decision, it has been observed as under:—

“35..... Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no corelation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as “pecuniary advantage” liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any corelation. The insured (deceased) contributes his own money for which he receives the amount which has no corelation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount

received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual.”

11. In Patricia Jean Mahajan [(2002) 6 SCC 281], after referring to the decision in Helen C. Rebello (supra), it was held that the amount received on account of social security must have a nexus or relation with the accidental injury or death, for being deductible from the amount of compensation. The amount received on account of an insurance policy of the deceased cannot be deducted from the amount of compensation though a receipt of the insurance amount was accelerated due to premature death of the insured. This decision was also rendered by a Bench of two learned Judges.

12. In Sebastiani Lakra [(2019) 17 SCC 465], the aforesaid two decisions were considered by a Bench comprising of three learned Judges. After considering the provisions of Section 168 of the M.V. Act which required payment of “just compensation” to the claimants, it was held in paragraphs 12 and 13 as under:—

“12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to ‘just compensation’ under the Motor Vehicles Act for death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his lifetime cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death.

13. As far as any amount paid under any insurance policy is concerned, whatever is added to the estate of the deceased or his dependents is not because of the death of the deceased but because of the contract entered into between the deceased and the insurance company from where he took out the policy. The deceased paid premium on such life insurance and this amount would have accrued to the estate of the deceased either on maturity of the policy or on his death, whatever be the manner of his death. These amounts are paid because the deceased has wisely invested his savings. Similar would be the position in case of other investments like bank deposits, shares, debentures, etc. The tortfeasor cannot take advantage of the foresight and wise financial investments made by the deceased.”

From the aforesaid decisions, it is now clear that the amount received on account of insurance is due to the contractual obligations entered into by the insured with others. Having paid premium it was clear that the beneficial amount would accrue to the share of the deceased either on maturity of the policy or on death, whatever be the manner of death. The tortfeasor cannot take advantage of the foresight and wise financial investments made by the deceased. This is the settled position of law.

13. In Dineshchandra Shantilal Shah (supra), the learned Single Judge was considering an appeal filed by the New India Assurance Company wherein the award passed by the Tribunal was under challenge. Before the Tribunal it was noted that an amount of Rs. 5,14,286/- towards compensation included the amount of reimbursement that was granted under a mediclaim policy of the claimant. It was urged by the insurer that the amount received under the mediclaim policy was liable to be deducted from the total amount of compensation as the claimant had already been reimbursed the said amount. After referring to the judgment of the Delhi High Court in National Insurance Company Ltd. v. R.K. Jain, 2012 SCC OnLine Del 3303 (MSE Appeal No. 346/2010 decided on 2nd July 2012) and on the basis of ratio of the decisions of the Supreme Court in Helen C. Rebello and Patricia Jean Mahajan (supra), it was held that the amount received by the claimant under the mediclaim policy was liable to be deducted from the total amount of compensation.

In our considered opinion, a deduction of the amount received under a mediclaim policy by the claimant could not be directed to be so deducted in the light of the law laid down in Sebastiani Lakra (supra) after considering the ratio of the decisions in Helen C. Rebello and Patricia Jean Mahajan (supra). As held therein, the amount under a mediclaim policy is received in view of a contract entered into by the claimant with the insurance company and the same is received in view of the terms of the contract. It is thus clear that the ratio of the decision in Dineshchandra Shantilal Shah (supra) does not indicate the correct legal position.

14. We may note that the Karnataka High Court in Manish Gupta (2013 ACJ 2478) considered a reference made to the Division Bench as to whether the amount received under a mediclaim policy could be deducted from the total amount of compensation awarded under Section 168 of the M.V. Act. It was held that the amount received by a claimant under a mediclaim policy was required to be deducted from the total amount of compensation received by the claimant under the head “medical expenses”. It was further held that if no amount was received under the mediclaim policy, the Tribunal was then required to assess the amount spent by the claimant towards medical expenses and grant such amount with respect to the bills produced. Similarly if the amount awarded under a mediclaim policy was less than the actual amount spent by the claimant towards medical expenses, the shortfall or the balance was required to be made good by the tortfeasor.

15. The Division Bench of the Kerala High Court in Akber Badsha (supra) also considered a similar reference made to the Division Bench as regards permissibility of deduction of the amount received by the claimant under a mediclaim policy. After referring to various decisions including the judgment of the Karnataka High Court in Manish Gupta (supra), a similar view was taken that such deduction of the amount received under a mediclaim policy from the total amount of compensation was permissible.

In our view, in the light of the decision in Sebastiani Lakra (supra), the

deduction of any amount received by a claimant under a mediclaim policy would not be permissible. We are therefore not in a position to agree with the view taken by the Karnataka High Court and the Kerala High Court in the aforesaid two decisions.

16. Various learned Single Judges have taken the view that any amount received under a medicalim policy is not liable to be deducted from the amount of compensation awarded under the head “medical expenses”. Such view as taken in Vrajesh Navnitlal Desai, Ajit Chandrakant Rakvi, Anjana Nileshkumar Parmar, Vaswati Samiran Ganguly, Suryakant Uttam Gaude and Aman Sanjay Tak (supra) is consistent with the view taken by the Supreme Court in Sebastiani Lakra (supra) that no such deduction of the amount of mediclaim from the amount of compensation awarded is permissible. It is not necessary for us to refer to various other decisions rendered by learned Single Judges that have consistently taken the view that the amount received under a mediclaim policy is not liable to be deducted from the amount of compensation awarded under Section 168 of the M.V. Act. In our view, the legal position has been correctly laid down in the aforesaid decisions of this Court.

17. We may also refer to the judgment of the Division Bench of the Calcutta High Court in New India Assurance Company Ltd. v. Bimal Kumar Shah, 2019 ACJ 1532 in this regard. Dipankar Datta, J. (as His Lordship then was) in his concurring opinion held that what a victim gets from his mediclaim policy is the return for making payment of premiums. It is the hard-earned money that he puts in towards premium which is thereafter returned to him upon happening of an accident. The return that a victim receives from his insurer on a claim arising out of a mediclaim policy in the circumstances is consolation money. To consider such benefit as a benefit received from other sources while determining the amount of compensation would be a narrow minded approach, not intended in the best interest of the victim. He therefore observed that the money received by an accident victim as return for money invested by him ought not to be comprehended as a benefit received and therefore the question of the victim being doubly benefited did not and could not arise. We are in respectful agreement with the aforesaid view as taken after referring to the decisions in Helen C. Rebello and Patricia Jean Mahajan (supra).

18. In the light of the foregoing discussion, we are of the considered opinion that the question as framed ought to be answered in the negative. Thus, any amount received by a claimant under a mediclaim policy or under a medical insurance policy is not liable to be deducted from the amount of compensation payable to a claimant under the head “medical expenses” in proceedings under Section 166 of the M.V. Act.

22. It is further evident that the claimant deposed in his cross-examination that about Rs.15 lacs was incurred by him on his treatment, but only Rs.4 lacs was reimbursed to him under the mediclaim policy. It is apparent that there is a shortfall of about Rs.11 lacs in the treatment expenses reimbursed to him. It is further evident that the claimant has submitted original bills before the tribunal, which itself proves that they were not submitted previously in the mediclaim. For claiming reimbursement in mediclaim, original bills are required and once they are submitted in the mediclaim, they cannot be submitted again before the tribunal. From these facts, it is apparent that the claimant was not going to be reimbursed twice, in any manner whatsoever.

23. It is apparent there there was a contract of insurance between the claimant and the Insurance Company regarding mediclaim policy for which a premium was paid by the claimant and in pursuance of that contract of insurance, the claimant was indemnified in respect of the expenses incurred by him on his treatment, which was not at all relevant for assessment of compensation in a claim case, which is based on statutory liability. From the above decisions of the Apex Court and different High Courts, it is evident that any amount reimbursed to the claimant on account of insurance due to the contractual obligations entered into with others, having paid premium, it was not liable to be deducted from the statutory compensation payable under the Motor Vehicles Act, 1988 because it cannot be termed to be a pecuniary advantage.

24. In view of above precedents and facts, the Tribunal has not erred in not deducting the reimbursement of medical expenses made to the claimant under a separate mediclaim policy and accordingly, the contention contrary to it advanced by the learned counsel for the appellant-Insurance Company is rejected.

25. No other issue was pressed by the learned counsel for the appellant.

26. In view of the aforesaid facts, this appeal has got no merit and is liable to be dismissed at the admission stage.

27. Accordingly, this appeal is dismissed at the admission stage.

28. Office is directed to remit back the statutory deposit made by the appellant at the time of filing of the appeal to the concerned Tribunal, forthwith.

(Sandeep Jain,J.)

January 20, 2026

Jitendra