

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

## Appeal from Order No.42 of 2012

United India Insurance Company Limited .... Appellant

## Versus

Sunit Kumar Gupta and others .... Respondents

Mr. Naresh Pant, Advocate for the appellant.  
Mr. S.K. Mandal, Advocate for the respondent no.1.  
Mr. Deepak Rawat, Advocate for the respondent no.3.  
Mr. Parikshit Saini, Advocate for the respondent no.4.

## With

## Appeal from Order No.49 of 2012

The Oriental Insurance Company Limited .... Appellant

## Versus

Suneet Kumar Gupta and others .... Respondents

Mr. Deepak Rawat, Advocate for the appellant.  
Mr. S.K. Mandal, Advocate for the respondent no.1.  
Mr. Parikshit Saini, Advocate for the respondent no.3.

30<sup>th</sup> September, 2016

**Hon'ble Servesh Kumar Gupta, J.**

Since, both these appeals have arisen out of the same accident, hence are being taken up together for adjudication.

The accident occurred on 08.06.2006 at 3:15 PM when the Government bus, insured with the Oriental Insurance Company, dashed with the truck, which was under the insurance cover of United India Insurance Company.

Injured Mr. Sunit Kumar Gupta, a youth of 28 years, was traveling, as an authorized passenger, in the bus suffered serious injuries on account of such accident, inasmuch as, his complete right arm was amputated and had to cut from rest of the body in order to save his life. He remained hospitalized for quite considerable time and thereafter, he could return on his work. He was a Physics teacher in Saraswati Vidya Mandir, a government recognized school and rendering his services as

the post graduate teacher scale and as has been claimed, his salary was Rs.9,880/- per month.

Learned Tribunal had determined the compensation to the tune of Rs.14,10,864/- along with 6% annual interest from the date of moving the claim petition.

The liability to satisfy such award has been apportioned 50-50% upon the both insurance companies and it has assailed such judgment by way of filing respective appeals in this Court.

Learned counsels for the insurance companies have submitted that the salary certificate issued under the signature of Principal has not been got proved, so it cannot be relied on. They have drawn the attention of this Court towards the law, laid down by the Division Bench of this Court in "*Kashmir Singh Vs. Santosh Singh Patiner and another*", reported in **2006 (2) UD 693** (also finds mention in the impugned judgment), wherein, referring Sections 47 and 67 of the Indian Evidence Act, it was held that merely by proving the handwriting of the person, who had written a document, the veracity of the statement made in the document, cannot be proved- Such person must depose before the Court to prove the contents thereof and must face cross-examination of the opponent- otherwise such document can merely be considered for the purposes of showing that such document was written.

I feel that such precedent of this Court should be read as a whole and it should not be recognized simply by the head-notes alone, which are prepared by the publisher. If we go through the judgment, rendered by the Division Bench of this Court, then it can be noticed that holding such law by the Bench, was predominantly for the invoices, bills and X-Ray reports filed without X-Ray plates, got issued for the medicines purchased and such precedent does not deal with the controversy of issuing the salary certificate under the signature of the Principal of concerned Institution and more particularly, where such Institution is recognized under the

seal of Government and commands a good reputation in the society.

Injured youth, running in the prime of his life, lost his complete right arm and he was not an ordinary person but a Physics teacher employed in the Post Graduate teaching scale. Such scale, otherwise also, cannot be inferred to be lesser than what was written by the Principal on the letter-head of such Institution under his signature. Therefore, the Court will certainly value such certificate to accept the same. The certificate of 70% disability, issued under the signature of the Board, comprising Chief Medical Officer as well as his two companion government doctors, is also need not to be proved, as has been implicitly legislated under Section 74 of the Indian Evidence Act. More so, when adjudicating the motor accident claim matters, the strict prove and applicability of the Indian Evidence Act, so rigidly is not required.

I feel that the whole human body and its each and every external and internal part is invaluable and even awarding of this compensation would not satisfy the loss and the mental agony as well as physical sufferance, which the injured has been constrained to undergo for rest of the life.

So, in view of what has been set forth above, both these appeals are bereft of any merit and are hereby dismissed.

The compulsory statutory amount in both the appeals, if lying in the Registry, shall be remitted back to the Tribunal concerned along with interest earned.

After remission of compulsory statutory amount, learned Tribunal shall immediately release the amount of compensation along with interest earned thereon to the claimant.

Stay order, if any, stands vacated.

Let a certified copy of this judgment along with LCR be sent back to the Tribunal concerned for information and compliance.

**(Servesesh Kumar Gupta, J.)**

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