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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MACApp./514/2019

THE NATIONAL INSURANCE COMPANY LIMITED
REGISTERED HEAD OFFICE AT 3, MIDDLETON STREET, CALCUTTA-
700071, REP BY THE MANAGER, GAUHATI REGIONAL OFFICE,
BHANGAGARH, GUWAHATI-781005

VERSUS

TAMSER ALI MONDAL AND 4 ORS
S/O KERAMAT ALI, R/O VILL. ANANDA NAGAR, P.O. AND P.S. BILASIPAR,
DIST. DHUBRI, ASSAM, PIN-783348

2:AMINA KHATUN
D/O SAJAHAN ALI
R/O VILL. GUTIPARA PT. II
P.O. GUTIPARA
P.S. BILASIPAR
DIST. DHUBRI
ASSAM
PIN-783349
PRESENTLY RESIDING AT VILL. ANANDA NAGAR
P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348(RESPONDENT NO. 2 BEING A MINOR IS REP. BY THE
RESPONDENT NO. 1)

3:SAJAHAN ALI (OWNER)
S/O JAYAN ALI SK
R/O VILL. GUTIPARA PT. II
P.O. GUTIPARA
P.S. BILASIPAR
DIST. DHUBRI

ASSAM
PIN-783349

5:RUPSAN ALI SHEIKH (INSURED)
S/O LT. B. ALI SHEIKH
R/O BELTOLI
P.O. HAKAMA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MS. R D MOZUMDAR, MR. S P SHARMA,MS. C MOZUMDAR

Advocate for the Respondent : MR. A T SARKAR, MD. A. RASHID,MR. M HUSSAIN

Linked Case : MACApp./592/2019

TAMSER ALI MONDAL AND ANR
S/O. KERAMAT ALI
VILL. ANANDA NAGAR
P.O. BILASIPARA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM.

2: AMINA KHATUN
D/O. SAJAHAN ALI
VILL. GUTIPARA PT-II
P.O. GUTIPARA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PRESENTLY RESIDING AT VILL. ANANDA NAGAR
P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348 BEING MINOR REP. BY PETITIONER NO.1.
VERSUS

THE REGIONAL MANAGER NATIONAL INSURANCE CO. LTD. AND 2 ORS
NATIONAL INS. CO. LTD. BHANGAGARH
GUWAHATI-05.

2:SAHAJAHAN ALI
S/O. JAYAN ALI SK
VILL. GUTIPARA PT. II
P.O. GUTIPARA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783349
(OWNER).

Advocate for : MR. M HUSSAIN
Advocate for : A A AHMED (r-2) appearing for THE REGIONAL MANAGER
NATIONAL INSURANCE CO. LTD. AND 2 ORS

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

22.09.2026

- 1.** Heard Ms. R. D. Mozumdar, the learned counsel for the appellant. Also heard learned counsel, Mr. A. T. Sarkar, the learned counsel for the claimant respondent Nos. 1 and 2.
- 2.** This appeal under Section 173 of the Motor Vehicle Act, 1988 has been preferred by National Insurance Company Limited against the impugned judgment dated 20.05.2019 passed by the learned MACT No. 3, Kamrup, Guwahati in MACT Case No. 1330/2016.
- 3.** The instant appeal has been preferred mainly on the ground that the owner of the offending vehicle was the father of the claimants and husband of the deceased, and therefore, the deceased and the claimants are not third party as against the owner of the vehicle. The appellant, therefore, states that the Insurance Company is not liable to pay any compensation to the claimants.

- 4.** Another ground taken by the appellant herein is that the son of the deceased was admittedly 27 years old at the time of adducing his evidence, and the learned Tribunal had calculated the compensation by taking the age of the deceased as 35 years, which is incorrect, as the mother of the claimant would have been 8 years old when her son was born. Therefore, there is total perversity in taking the age of the deceased as 35 years.
- 5.** The learned counsel for the appellant has taken the ground that by taking the age of the deceased as 35 years, the learned Tribunal has committed an error by taking the multiplier as 16.
- 6.** After taking this Court to the impugned judgment dated 20.05.2019 in MACT Case No. 1330/2016, the appellant has also stated that the learned Tribunal has come to a finding that the claimant No. 1, Tamser Ali Mondal, is not a dependent of the deceased and that claimant No. 2, Amina Khatun, is the only living dependent legal heir of the deceased.
- 7.** In view of such finding, the learned Tribunal ought to have taken 50% towards personal expenses. However, the Tribunal has wrongly taken the deduction at $1/3^{\text{rd}}$.
- 8.** On the above-stated grounds, the impugned judgment has been challenged by the Insurance Company.
- 9.** The learned counsel for the claimant-respondents has also fairly admitted that the age of the deceased was not proved before the Tribunal, and it is the joint prayer of the parties that this matter may be remanded back to the learned Tribunal to adduce evidence with regard to the age of the deceased and to calculate the

compensation as per the age arrived at after adducing evidence by both the parties and the policy conditions.

- 10.** In view of the above submissions, this appeal is remanded back to the learned MACT No. 3, Kamrup, Guwahati with a direction to the Tribunal to allow the parties to adduce evidence with regard to the age of the deceased and the policy conditions, and also to consider all the grounds taken by the appellant, and also to hear both the parties on the grounds taken by the appellant in the instant appeal and thereafter, award just and fair compensation, if found eligible.
- 11.** The Tribunal shall make an effort to dispose of the matter within six months from the date of appearance of the parties.
- 12.** The parties shall appear before the Tribunal on 05.11.2026.
- 13.** With the above directions, the matter stands disposed of.
- 14.** The Registry shall send back the TCR expeditiously.

JUDGE

Comparing Assistant