GAHC010173792016

2026:GAU-AS:16768

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

Case No. : MACApp./249/2016

MRS SAKIANA BIBI and ANR
W/O MD. BHABER ALI

2: MD. BHABER ALI

S/O LATE BHEBAI SK. BOTH THEM ARE R/O VILL. KODALDHOWA
P.O. and P.S. FAKIRAGRAM
DIST. KOKRAJHAR
ASSAM

VERSUS

ORIENTAL INSURANCE COMPANY LTD and 3 ORS
REPRESENTED DIVISIONAL MANAGER, BONGAIGAON DIVISION, P.O. and P.S. BONGAIGAON, DIST. BONGAIGAON, ASSAM INSURER OF THE VEHICLE BEARING REGD. NO. AS 17/B-2866 TRACTOR PIN NO.....

2:UNITED INDIA INS. CO. LTD.

REPRESENTED BY ITS DIVIONAL MANAGER
BONGAIGAON DIVISION
P.O. and P.S. BONGAIGAON
DIST. BONGAIGAON
ASSAM

3:LOKEN NATH
S/O LATE CHAITARAM NATH
R/O VILL. HELAGURI
P.O. BILASIPARA
DIST. DHUBRI
ASSAM.

4:MD. IFTIKAR RAHMAN
S/O KHORITULLA SK

R/O VILL. KODALDHOWA
P.O. and P.S. FAKIRAGRAM
DIST. KOKRAJHAR
BTC
ASSAM
PIN NO. .....

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the Appellants : Shri I.A. Talukdar.
Advocates for the respondents : Shri S. Dutta (R-1)
Shri R. Goswami (R-2)
Shri A.T. Sarkar (R-4)

Date on which judgment is reserved : **03.11.2026**
Date of pronouncement of judgment : **13.11.2026**

Whether the pronouncement is of the operative part of the judgment? : NA
Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER

The instant appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred in respect of a judgment dated 10.05.2016 passed by the learned MACT, Kokrajhar in MAC Case No. 86/2014. By means of the appeal, the appellants, who were the claimants before the learned Tribunal, are seeking enhancement of the awarded amount.

2. Before going into the grounds of appeal, it would be convenient if the facts of the case are put in brief.

3. As per the claim petition, on 01.01.2014 at about 1:40 P.M., the son of the claimants (hereinafter interchangeably being used as appellants/claimants)-Siraj Daula, was proceeding from Bangalipara towards Beltoli by the NH 31 as a pillion rider of a vehicle (motorcycle) bearing registration no. AS-16/D-0231. A

rashly and negligently driven tractor bearing registration no.AS-17/B-2866 hit the motorcycle from behind causing multiple grievous injuries to deceased. The deceased was immediately shifted to the Bilasipara PHC for treatment and thereafter, to the Lower Assam Hospital & Research Centre, Bongaigaon and then to Guwahati, where he succumbed to the injuries on 06.01.2014. It may be mentioned that the motorcyclist was also seriously injured in the accident.

4. The claimants, who are the parents of the deceased had accordingly instituted the claim. In the said proceeding, the Opposite Party nos. 1 and 2 (Oriental Insurance Company Limited) had contested the case. The learned Tribunal framed the following issues:

> *1) Whether Siraj Daula succumbed to his injuries on 06.01.2014 for the injury sustained on 01.01.2014 at about 1.40 pm when he was a pillion rider in AS-16D/0231 he was hit by a rashly and negligently driven tractor No. AS-17B/2866?*
>
> *2) Whether the driver of the tractor was at fault?*
>
> *3) Whether the claimant is entitled for compensation from the owner and the insurer of the tractor and to what extent?*

5. The claimants had adduced evidence through 2 (two) nos. of witnesses. PW1 is the claimant no. 1, who is the mother of the deceased and PW2 is the person who had taken the deceased from the site of accident to the hospital. The relevant documents are also proved.

6. The learned Tribunal adopted the multiplier of 11 by referring to the age of claimant no. 1, who was 51 years of age. Since the monthly income of the deceased was not proved, the Tribunal took a notional income of Rs.3,000/- per month and on that basis, awarded compensation of Rs.3,88,112/- (Rupees

Three Lakhs Eighty Eight thousand One Hundred Twelve) only together with the interest @ 6% per annum from the date of filing the case. The Award, however, was passed against opposite party no. 3 - Laken Nath - the driver of the tractor. The learned Tribunal further observed that the tractor, being primarily meant for agricultural purposes, was covered by an insurance policy issued for that purpose alone and at that time of the accident, the tractor was not being used for agricultural purposes.

7. Being aggrieved by the adequacy of the Award, the instant appeal has been preferred.

8. I have heard Shri I.A. Talukdar, learned counsel for the appellants. I have also heard Shri S. Dutta, learned counsel for the respondent no.1, Shri R. Goswami, learned counsel for the respondent no.2 and Shri A.T. Sarkar, learned counsel for the respondent no. 4.

9. Shri Talukdar, the learned counsel for the appellants, has submitted that the compensation is wholly inadequate. He submits that although a sum of Rs.66,112/- (Rupees Sixty Six Thousand One Hundred and Twelve) only has been granted under the head of medical expenses, the actual medical expenses incurred were about Rs.1,00,000/- (Rupees One Lakh) only. He further submits that no compensation has been granted under the Head of "Love and Affection".

10. Shri Talukdar, the learned counsel has also invited the attention of the Court to the fact that in respect of the motorcycle rider, a separate case was instituted in which the same Tribunal had granted an award to be paid by the insurance company of the tractor. In the instant case, however, the liability has been fastened on the owner of the tractor without any reasons, which, he submits, would itself render the release of the amount a difficult task. He

further submits that the conventional Heads, namely Loss of Estate, Loss of Consortium and other Heads have not been properly taken into consideration by the learned Tribunal. He submits that the impugned award requires interference and is liable to be enhanced.

11. *Per Contra*, Shri Dutta, the learned counsel for respondent no. 1 has submitted that there is no error in the evaluation or assessment of the medical expenses. He submits that medical vouchers and bills were proven only to the extent of Rs. 66,112/- (Rupees Sixty Six Thousand One Hundred and Twelve) only and that the learned Tribunal accordingly granted the amount.

12. The learned counsel, however fairly submits that certain aspects laid down by a Five Judge Bench in the landmark decision in ***National Insurance Co. Ltd v. Pranay Sethi [2017 (16) SCC 680]*** do not appear to have been taken in consideration by the learned Tribunal. He has also not disputed the factual position that, so far as the owner of the motorcycle is concerned, the same Tribunal had granted an Award payable by the Insurance Company of the Tractor.

13. Shri Goswami, the learned counsel for respondent no. 2 has submitted that the conventional Head as laid down by the Hon'ble Supreme Court in ***Pranay Sethi*** (supra) do not appear to have been taken in consideration by the Tribunal.

14. Shri Sarkar, the learned counsel for respondent no. 4 submits that he has no role in the adjudication of the present appeal.

15. It may be mentioned that respondent no. 3 has chosen not to contest the appeal.

16. The learned Tribunal has taken the monthly income of the deceased as

Rs.3,000/- (Rupees Three Thousand) only as there was no proof of income. In the view of this Court, such an approach cannot be said to be unreasonable. The calculations made by the learned Tribunal, however do not appear to be in consonance laid down by the Hon'ble Supreme Court in the case of ***Pranay Sethi (supra).*** Future income is required to be taken as 40%, whereas it has been taken at 50%. The funeral expenses, which are prescribed at Rs. 15,000/- with an addition @ 10% has been given as Rs. 25,000/-. No amount has been given on the Head - Loss of Estate which has been prescribed to be Rs. 15,000/- with enhancement of 10% every 3 years. No amount has been given under the Head- Loss of Consortium which is Rs.40,000/- per head with a similar enhancement of 10% every 3 years.

17. This Court has also found that the learned Tribunal has erred in taking the multiplier as 11 by considering the age of the mother. However, it is the age of the deceased which is material and the deceased being aged about 29 years, the correct multiplier would be 17.

18. In view of the aforesaid discussions which are based on the principles laid down for ascertaining a reasonable and fair compensation, the following emerges which is put in a tabular form:

(i) Monthly Income	Rs.3,000/-
(ii) Future Prospect 40%	Rs.1,200/-
(iii) Yearly Income = (i + ii) x 12	Rs. 50,400/-
(iv) Deduction by 50% as deceased was a bachelor	Rs.25,200/-
(v) Compensation Rs. 25,200/- x 17	Rs.4,28,400/-
(vi) Funeral Expenses Rs.15,000/- + Rs.4,500/-	Rs.19,500/-

(vii) Medical Expenses	Rs.66,112/-
(viii) Loss of Estate Rs.15,000/- + Rs.4,500/-	Rs.19,500/-
(ix) Loss of Consortium Rs.40,000/- x 2 = Rs.80,000/- + (10% every 3 years after 2017) Rs.24,000/-	Rs.1,04,000/-
TOTAL	Rs.6,37,512/-

19. So far as the rate of interest is concerned, while the Tribunal has granted 6% per annum, judicial precedent would require such interest to be given @ of 9% per annum. In this regard, this Court would take aid from certain observations and opinion expressed by the Hon'ble Supreme Court in the case of ***Puttamma and Others v. K.L. Narayana Reddy and Another*** reported in ***(2013) 15 SCC45*** which are as follows:

> "*59. This Court in Kaushnuma Begum v. New India Assurance Co. Ltd. & Ors. (2001) 2 SCC 9 noticed that the Nationalized Banks are granting interest @ 9% on fixed deposit for one year and held as follows:*
>
> > "*24. Now, we have to fix up the rate of interest. Section 171 of the MV Act empowers the Tribunal to direct that "in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as may be specified in this behalf". Earlier, 12% was found to be the reasonable rate of simple interest. With a change in economy and the policy of Reserve Bank of India the interest rate has been lowered. The nationalised banks are now granting interest at the rate of 9% on fixed deposits for one year. We, therefore, direct that the compensation amount fixed hereinbefore shall bear interest at the rate of 9% per annum from the date of the claim made by the appellants. ...*
>
> *60. ...*
>
> *61. In Supe Dei v. National Insurance Co. Ltd.&Anr. (2009) 4 SCC 513 this*

Court held that proper interest would be 9% per annum."

There is another aspect of the matter. Vide the impugned judgment, the compensation has been directed to be paid by the owner of the offending vehicle i.e., the tractor. This Court has however been apprised that so far as the claim instituted by the motorcyclist in the same case is concerned, the liability has been saddled with the Oriental Insurance Company. In fact, the judgment itself dated 05.12.2015 has been enclosed as Annexure 4 of the memo of appeal. This Court is of the opinion that on the same accident when the liability has been saddled with the Insurance Company and there being no dispute that there was a valid insurance cover of the tractor in question, the mere fact that the accident had happened on the road and not on the agricultural field cannot be a reason to saddle the owner of the tractor.

20. The appeal accordingly succeeds. The appellants would be entitled to the compensation of Rs.6,37,512/- (Rupees Six Lakh Thirty Seven Thousand Five Hundred and Twelve) only along with interest @9% per annum from the date of institution of the claim petition. However, since vide the impugned Award, the liability was saddled not on the Insurance Company, such interest would be payable from the date of institution of the claim petition till the date of the Award. The total compensation be deposited by the respondent no.1 – Oriental Insurance Company Limited either in the Registry of this Court or before the learned Motor Accident Claim Tribunal, Kokrajhar within a period of 45 days from today. The same would be released to the claimants thereafter on being duly identified by their learned counsel.

21. Sent back the records.

JUDGE

Comparing Assistant