

GAHC010199542017



2024:GAU-AS:12247

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

**Case No. : MACApp./390/2017**

ANOWARUL ISLAM and ANR.  
S/O LATE SAFIUR RAHMAN

2: MUST. FATEMA KHATUN

W/O MD. ANOWARUL ISLAM  
BOTH ARE R/O VILL. KALPANA NAGAR  
WARD O. 3  
GOALPARA TOWN  
P.O. GOALPARA  
P.S. and DIST. GOALPARA  
ASSAM

VERSUS

THE D.M., NEW INDIA ASSURANCE CO. LTD. and ORS.  
NEW INDIAN ASSURANCE CO. LTD., BONGAIGAON DIVISION, P.O. and  
DIST. BONGAIGAON, ASSAM, PIN

2:ROHINI KR. ROY

S/O NIVA RAM ROY  
VILL. and P.O. CHAKAPARA  
P.S. and DIST. BONGAIGAON  
ASSAM  
PIN 783380

3:ARUN BARUAH

S/O SRI NAGESWAR BARUAH  
VILL. 2 JHAKRAPARA  
P.S. and DIST. BONGAIGAON  
ASSAM  
PIN 78338

**Advocate for the Petitioner** : MS.H DAS, MR.H GOGOI

**Advocate for the Respondent** : MR.A J SAIKIA, MR.U K DUTTA,MR.K BORAH,MR.B KAKATI,MR.N N BHUYAN

**BEFORE  
HONOURABLE MR. JUSTICE BUDI HABUNG**

**JUDGMENT**

**Date : 04-12-2024**

**J U D G M E N T & O R D E R ( C A V )**

Heard Mr. H. Das , learned counsel for the appellants. I have also heard Mr. A.J. Saikia, learned counsel appearing on behalf of the respondent.

**2.** The present appeal has been filed for enhancement of the compensation amount granted in the final judgment and order dated 16.8.2012 passed by the Member, MACT, Goalpara in MAC Case No.12/2017.

**3.** The brief fact of the case is that the appellants as claimants filed the claim petition before the Member, MACT Goalpara claiming compensation of Rs. 9,00,000/- (Repress nine lakhs) on account of death of their son Pavel Islam in the accident. The accident occurred on 19.5.2006 at about 1 PM on National Highway-37 caused by offending vehicle No.AS-19-A-2082 (Pick up van). As a result of the accident, the deceased suffered serious injuries and died on the way to GMCH, Guwahati when he was taken for better treatment. He was referred by Goalpara Civil hospital. The accident took place due to rash and negligent driving of the driver of the offending vehicle. The claim petition was contested.

**4.** On completion of trial, the Tribunal by judgment dated 16.8.2012 awarded compensation amount of Rs.2,85,000/- only in favour of the claimants, and

directed the opposite party, New India Assurance Co. Ltd to pay the compensation amount, within 2(two) months from the date of the said order, with simple interest at the rate of 8% per annum, from the date of filing of the claim petition. Being aggrieved by the said judgment dated 16.8.2012, the appellants preferred this appeal for enhancement of the awarded amount amongst others on the following ground: -

(i) That the impugned award of Rs.2,85,000/- only with interest at the rate of 8% per annum is inadequate, and the rejection of the rest of the amount claimed by the claimants are contrary to the law.

(ii) That the determination of the quantum of compensation was not made on the correct proposed/standard and the same has been made based on speculation.

(iii) That the age of the deceased at the time of accident was 26 years and the same has not been disputed. However, the learned tribunal has not taken the same into account, and thus, it has affected the multiplier in the quantum.

(iv) That the learned Tribunal is wrong to apply the multiplier filed in respect of the claimant No.1 (father) only, excluding the multiplier 11 in respect of the claimant No.2/mother.

(v) That the claimants have submitted relevant income of the deceased at Rs.10,000/- to Rs.12,000/-. However, the learned Tribunal has given only Rs.8000/- pm.

**5.** In support of his submission, the learned counsel for the appellants relied upon the decision of the Hon'ble Supreme Court, in the case of ***Joginder Singh & Another vs ICICI Lombard General Insurance Company, reported in (2020) 18 SCC 808***; wherein the compensation to be awarded to the claimant has been prescribed under the heads:- (1) Income;(2) Future

prospects;(3) deduction towards personal expenses;(4) Total Income;(5) Multiplier; (6) Loss of future income; (7) Loss of consortium to each of the appellants; and (8) Loss of estate. The learned Tribunal in the said judgment failed to include loss of filial consortium; loss of estate; and funeral expenses.

**6.** The learned counsel for the appellants has also relied upon the decision of the Hon'ble Supreme Court, in the case of ***United India Insurance Company, Limited vs Satinder Kaur alias Satwinder Kaur and others***, reported in ***(2021) 11 SCC 780***; wherein apart from the grant of compensation, as in the case of ***Joginder Singh (supra)***, the multiplier table has also been given. For the reasons stated above, the learned counsel for the appellants prays for enhancement of the compensation granted by the learned Tribunal, by its judgment dated 16.8.2012.

**7.** The learned counsel appearing on behalf of the respondent Insurance Company fairly submitted that the age of the deceased as 26 years at the time of the accident was not taken into account, and the claimants are entitled for future prospects, at the rate of 40%. However, he submitted that the same will not carry an interest. The learned counsel for the respondent further submits that the respondent Insurance company, has already deposited a sum of Rs.4,13,617/- on 21.5.2013, and the claimants have also received sum of Rs.45,000/- being compensation amount of loss of consortium, loss of estate, funeral expense etc.

**8.** The learned counsel for the respondent further submits that he has no objection, if the claims and enhancement of the compensation amounts, is granted to the claimants, as per the decision of the Hon'ble Supreme Court, in Pranay Sethi's case. It is further submitted that the income of the deceased, at the rate of Rs.8000/- is just and reasonable, and the interest at the rate of 8%

per annum is also reasonable, and therefore, the same may be upheld as granted by the learned Tribunal.

**9.** As seen above, both the learned counsel for the parties have agreed for enhancement and for modification of the original award. The mutually agreed terms by the parties are as follows: -

- i) Income: Rs.8000/-
- ii) Future prospect: Rs.3200 (i.e 40% of the income)
- iii) Deduction towards personal expense: Rs.5600  
(i.e.)50% of Rs.8000+Rs.3200
- iv) Multiplier: 17
- v) Loss of future prospect/income: Rs.11,42,400  
(i.e.5600 x 12 x 17)
- vi) Enhanced amount: Rs.8,57,400  
(Rs.11,42,400-2,85,000 Award of MACT)
- vii) Loss of filial consortium: Rs.96,000 (40,000+20%x2)
- viii) Loss of estate: Rs.18000/-
- ix) Funeral expense: Rs.18000/-

**Total Rs.12,74,400 + 8% interest PA.**

Out of the above, the future prospect amount of Rs.3,26,400/- will not carry any interest. The amounts already paid will not carry interest, and the same will be adjusted with the total amounts.

**10.** On careful consideration of the submissions made by the learned counsel for the parties, and having examined the proposed enhancement and modification of the award, and the amount of compensation mutually agreed upon by both the parties, this Court is satisfied that the parties have reached a consensus for enhancement and modification of the quantum of the award.

**11.** In the light of the aforesaid discussion, the compensation award to the appellants/claimants is enhanced and modified as follows: -

- i) Income: Rs.8000/-
  - ii) Future prospect: Rs.3200 (i.e 40% of the income)
  - iii) Deduction towards personal expense: Rs.5600  
(i.e.)50% of Rs.8000+Rs.3200
  - iv) Multiplier: 17
  - v) Loss of future prospect/income: Rs.11,42,400  
(i.e.5600 x 12 x 17)
  - vi) Enhanced amount: Rs.8,57,400  
(Rs.11,42,400-2,85,000 Award of MACT)
  - vii) Loss of filial consortium: Rs.96,000 (40,000+20%x2)
  - viii) Loss of estate: Rs.18000/-
  - ix) Funeral expense: Rs.18000/-
- Total                      Rs.12,74,400 + 8%**

**12.** Accordingly, the respondent, New India Assurance Co. Ltd is directed to pay compensation amount of Rs.12,74,400/- with interest at the rate of 8% per annum. However, it is made clear that out of the above amount, the future prospect amount of Rs.3,36,400/- will not carry any interest. Further, the amount already paid will not carry interest and will be adjusted with the total amount. The payment of compensation shall be made as per mode of disbursement as mentioned in the judgment and award dated 16.8.2012. The respondent Insurance company shall make payment of the compensation amount to the appellants/claimants within 60 days from the date of receipt of a certified copy of this order.

**13.** The appeal is allowed to the extent as indicated above, and the judgment

and award of the Tribunal dated 16.8.2012 stand modified accordingly, in terms.

**14.** With the above observation, the appeal stand disposed of.

Let the record be sent back.

**JUDGE**

**Comparing Assistant**