

GAHC010058202018



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

Case No. : MACApp./321/2018

SMTI KAMALA MEDHI AND ANR
W/O LATE DINESH MEDHI, R/O LAKHI MANDIR, BYE LANE NO. 2, P.S.
BASISTHA, KAMRUP (M), GUWAHATI 781028, ASSAM.

2: SMTI NIBEDITA MEDHI
D/O LATE DINESH MEDHI
R/O LAKHI MANDIR BYE LANE NO. 2
P.S. BASISTHA
KAMRUP (M)
GUWAHATI 781028
ASSAM

VERSUS

SRI ARABINDA BHOWMIK AND ANR
S/O LATE HARISH CHANDRA BHOWMIK, R/O WARD NO. 6, BIRUBARI, P.S.
PALTAN BAZAR, KAMRUP (M), GUWAHATI 781016, ASSAM (OWNER OF
THE VEHICLE BEARING REGD. NO. AS-01-C-1571 (TRUCK))

3:M/S UNITED INDIA INSURANCE CO. LTD.
DIVISION OFFICE-II
BHANGAGARH
GUWAHATI 781005 (INSURER OF THE VEHICLE BEARING REGD. NO. AS-
01-C-1571) (TRUCK)

Advocate for the Petitioner : MR. R Deka

Advocate for the Respondent : MR. B K PURKAYASTHA (R3)

PRESENT

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellants	:	Mr. R. Deka, Advocate.
For the Respondents	:	Mr. R. Goswami, Advocate.
Date of Hearing	:	14.03.2023.
Date of Judgment	:	16.03.2023.

JUDGMENT AND ORDER (CAV)

Heard Mr. R. Deka, learned counsel representing the appellants as well as Mr. R. Goswami, learned counsel appearing for the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment dated 18.11.2017 passed by the learned Member, Motor Accident Claims Tribunal No.1, Kamrup(M), Guwahati in MAC Case No.600/2007.

3. On 17.07.2006, two vehicles bearing Registration Nos.AS-01Y-5273 and AS-01C-1571 coming from two opposite directions collided with each other and as a result of the said accident, the son of the claimant Smti Kamala Medhi sustained grievous injuries and succumbed to his injuries.

4. The Tribunal framed the following issues:

(1) Whether the victim Lt. Biswajyoti Medhi died as a result of the

injuries sustained by him in the alleged road accident dated 17.07.2006 involving vehicle bearing No.AS-01C-1571 (Truck) and whether the said accident took place due to rash and negligent driving of the offending vehicle?

(2) Whether the claimants are entitled to get any compensation and if yes, to what extent and by whom amongst the opposite parties, the said compensation amount will be payable?

5. During the hearing, the appellants examined two witnesses. Finally, the Tribunal awarded a compensation of Rs.3,39,000/-.

6. Mr. Deka submits that the deceased was 22 years old and was an Engineering student. According to Mr. Deka, the Tribunal notionally took the monthly income of the deceased to be Rs.3,000/- only. Mr. Deka has relied upon a judgment of the Supreme Court that was delivered in Smt. Meena Pawaia and Ors. vs. Ashraf Ali and Ors. vide Civil Appeal No.6724/2021. In a similarly situated, the Supreme Court has held a higher amount of monthly income of a deceased.

7. Mr. Goswami submits that the aforesaid judgment of the Supreme Court pertains to an accident that took place in the year 2012 whereas the accident relating to the case in hand took place in the year 2006. According to Mr. Goswami, the Tribunal has rightly decided the monthly income of the deceased to be Rs.3,000/- per month considering the relevant price index.

8. I have considered the submissions made by the learned counsels of both sides.

9. Considering the fact that the deceased was 22 years old and he was an Engineering student, the notional monthly income should have been at least Rs.5,000/-. It may be mentioned that deceased was an unmarried person. Therefore, the impugned judgment deserves to be modified accordingly.

10. The calculation should be like this–

Yearly income - Rs.5,000/- X 12 = Rs.60,000/-.

50% deducted on account of personal expenses.

Loss of dependency- Rs.30,000/-X18=Rs.5,40,000/-

Funeral expenses- Rs.25,000/-

Total Rs.5,65,000/-

11. The appeal is allowed. The impugned judgment stands modified. The appellants are entitled to Rs.5,65,000/- along with interest at the rate of 7% per annum since 13.06.2016 till completion of full payment. If any amount is already paid on no fault liability, the same shall be adjusted. United India Insurance Company Ltd. is directed to pay Rs.5,65,000/- (Rupees Five Lakhs Sixty Five Thousand).

12. The appeal is disposed of.

Send back the LCR.

JUDGE

Comparing Assistant