

GAHC020001102021



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

Case No. : MACApp./5/2021

THE BRANCH MANAGER, CHOLAMANDALAM
MS GENERAL INSURANCE CO. LTD.
ASTHA PLAZA COMPLEX, 7TH FLOOR,
OPPOSITE S.D. DEORAH COLLEGE, BORA SERVICE,
ULUBARI, GUWAHATI - 781007, ASSAM

VERSUS

SMTI. KARABI BORAH DUWARAH AND 5 ORS
W/O LT. DHARMA KANTA BORAH @ DHARMA BORAH, PRESENTLY
RESIDING AT TIRYIM, NEAR NEW SHOWBA VILLAGE, DIMAPUR,
NAGALAND

2:SHRI. REBOT BORAH S/O LT. DHARMA KANTA BORAH
PERMANENT R/O DIGHALI CHOWKHAM GAON
P.O/P.S - GHILAMARA DIST - LAKHIMPUR ASSAM

3:SHRI. PARTHA PRATIM BORAH S/O DHARMA KANTA BORAH
PERMANENT R/O DIGHALI CHOWKHAM GAON P.O/P.S -
GHILAMARA DIST - LAKHIMPURA ASSAM

4:SMTI. GOLAPI BOROAH W/O SHRI. BHURAM BORAH
PERMANENT R/O DIGHALI CHOWKHAM GAON
P.O/P.S - GHILAMARA DIST - LAKHIMPUR ASSAM

5:M/S LACHIT SHG C/O PRESIDENT/SECRETARY
SHRI. DWIPEN BORAH , VILLAGE DIGHALI
P.O GHILAMARA

6:RAJIV KAMAN S/O SHRI. ANANDA KAMAN VILLAGE
HAMARA(BAHGARAH) P.O DHUNAGURI.

Advocate for the Petitioner : MOA JAMIR

Advocate for the Respondent : B. N. SARMAH

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

JUDGMENT & ORDER (CAV)

Date : 07-06-2023

The present appeal has been filed under section 173 of the Motor Vehicles Act, 1988 challenging the judgment dated 13/05/2020 passed by the learned Member Motor Accident Claims Tribunal, Dimapur, Nagaland, in MAC Case No. 66/2017.

2. The facts relevant for adjudicating the present appeal is that on 04/02/2017 at about 12:00 Noon the deceased husband of the claimant No.1 late Dharma Kanta Borah @ Dharma Borah and one Jitu Bura Gohain was requested by the driver of the Tractor B/R No. AS-07-AC/1373 to accompany him for threshing mustard seeds at Singia village. The tractor was pulling a threshing machine to thresh the mustard seeds. As the deceased Dharma Kanta Borah and the said Jitu Bura Gohain were walking on foot besides the tractor, the thresher machine pull over the stem of a tree and as a result of which the thresher machine overturned on Dharma Kanta Borah and the said Jitu Bura Gohain instantaneously causing the death of Dharma Kanta Borah and inflicting grievous injuries to Jitu Bura Gohain.

3. The MAC Case No. 66/2017 was accordingly filed by the wife of late Dharma Kanta Borah (claimant No.1) the sons of late Dharma Kanta Borah (claimant No.2 & 3) and the mother of late Dharma Kanta Borah (claimant No.4) claiming a compensation of Rs. 23,87,000/- which included pecuniary loss and non-pecuniary special damages, with 12% interest p.a on the claim amount.

4. The opposite party No.1 & 2 i.e. the owner and the driver of the offending vehicle (tractor) contested the claim petition by filing a joint written

statement. So also the opposite party No. 3 & 4 i.e. the insurer of the offending vehicle contested the claim petition by filing the joint written statement.

5. That the following issues were framed by the Tribunal for deciding the claim petition;

i) Whether the claim petition is maintainable in the present form?

ii) Whether the deceased died in the accident dt. 4.2.17 due to rash and negligent driving of the driver of the offending vehicle No. AS-07/AC-1373 (tractor)?

iii) Whether at the time of accident the vehicle was possessing valid and effective documents including driving license?

iv) Whether the injured claimant was 38 years old and was earning Rs. 15000/- per month?

v) Whether the claimants are entitled to any compensation? If so, what amount and payable by whom?

6. That upon adjudication of the claim petition, the learned Tribunal by the judgment dated 13/05/2020 held as follows;

“In view of the findings in the Issues (i) to (iv), this Tribunal is of the view that the claimants are entitled to compensation for the death of the deceased and the loss of dependency. The deceased died at the age of 38 years the relevant multiplier is 15. The monthly income of the deceased is taken as Rs. 10,000/- per month. At the time of death the deceased left behind his wife, mother and two sons and as such, ¼ is to be deducted towards personal expenses of the deceased. Accordingly, the compensation to which the claimants are entitled as per NIC Ltd. -vrs- Pranay Sethi & Ors., AIR 2017 SC 5157 is assessed as under:-

Income : Rs. 10,000/- p.m, i.e. Rs. 1,20,000/- per annum

Future prospects (addition of 40% of income)=Rs. 1,20,000 + 48,000/-= 1,68,000/-

Multiplier : 15

Total pecuniary loss=Rs.25,20,000/- (i.e. Rs. 1,68,000 x 15)

Minus personal expenditure:1/4th of Rs. 25,20,000/- - Rs.6,30,000/-

=Rs. 18,90,000/-

Funeral expenses =Rs. 15,000/-

Loss of estate= Rs. 15,000/-

Loss of consortium (wife)= Rs. 40,000/-

Loss of filial consortium (mother)= Rs. 40,000/-

Total compensation under all heads= Rs. 20,00,000/-

*Minus Interim award (Rs. 50,000/-)= **Rs. 19,50,000/- (Rupees Nineteen lakhs fifty thousand) only***

The awarded amount shall be paid to the claimant with interest thereon at the rate of 9% per annum from the date of filing the claim petition till full satisfaction of the award. The O.P No. 3 & 4/insurer is directed to pay the award within one month from the date of this order. Furnish copy of the award to the parties concerned."

7. That being aggrieved by the judgment dated 13/05/2020 passed by the learned Tribunal, the appellant/insurer has filed the present appeal on the following grounds;

(i) The first ground of appeal is that the accident did not occur due to the rash and negligent driving of the driver of the offending vehicle (tractor) and the death of the husband of the claimant/respondent No.1 was not caused due to the said accident.

(ii) The second ground of appeal is that the claimants/respondents did not adduce any documentary evidence to substantiate that the deceased was an agriculturist and a businessmen and therefore, the monthly income of Rs. 10,000/- of the deceased computed by the learned Tribunal is not only exorbitant and speculative but without any basis.

(iii) The third ground of appeal is that the notification dated 30/05/2017 which was issued by the Government of Assam, Office of the Labour Commissioner, Assam, fixing the wages/VDA payable to different categories of workmen was not taken into consideration while computing the income of the injured claimant. The notification has fixed the daily wage/income of an un-skilled workmen at Rs. 257.40/- per day and the

monthly wage/income to Rs. 7722.00/-. The Tribunal however without taking the notification dated 30/05/2017 into consideration has fixed the daily wage/income of the deceased, an un-skilled workmen, at Rs. 333/- per day and the monthly income at Rs. 10,000/- without any basis.

v) The fourth ground of appeal is that the Tribunal erred in law in granting 9% interest on the compensation amount.

8. Heard Mr. Moa Jamir, learned counsel for the appellant/Insurer and Mr. B. N. Sarmah, learned counsel for the claimant/respondent No. 1 to 4. None appears for the respondent No. 5 & 6.

9. The first ground of appeal raised by the appellant/insurer has been dealt with and answered by the learned Tribunal while deciding the Issue No.(ii) of the claim petition. The deposition of the claimant/respondent No.1 which is recorded by the learned Tribunal clearly reveals that on 04/02/2017 at about 12:00 Noon, the driver of the offending vehicle (tractor) B/R No. AS-07-AC/1373 requested the deceased and one Jitu Bura Gohain for threshing mustard seeds at Singia village. The deceased and the said Jitu Bura Gohain accordingly proceeded to Singia village on foot. The offending tractor was pulling one threshing machine to thresh the mustard seeds and on the way before Singia village due to rash and negligent driving of the driver, the threshing machine ran over the stem of a tree and overturned on the deceased and Jitu Bura Gohain resulting in the death of the deceased and inflicting serious injuries on the said Jitu Bura Gohain.

In the cross-examination by the appellant/insurer, on the factum of the accident, the claimant/respondent No.1 has deposed as follows;

“It is correct to say that the first information about the accident was given to me by my brother-in-law.”

“It is correct to say that I was not present on the spot on the day of accident.”

The learned Tribunal had also recorded the evidence of one Dipankar Hazarika, an eye witness to the accident as follows;

“On the day of accident I was working along with some labour at

my paddy field at Singia village. Just nearby my paddy field there is one kutcha road with bushes and stem of wood/tree. The driver of the offending tractor was pulling one thresher machine for threshing of mustard seeds; he was in high speed and suddenly one wheel of the thresher machine rammed on a stem of a tree; resultantly the thresher machine overturned on two pedestrians wherein one died on the spot and other one sustains grievous injuries. Having seen the accident we were helping the victims in front of police. The accident took place about 25 to 30 distance from me which I have seen clearly. What I have seen in the accident dated 04/02/2017 was the resulted of sole negligence of the offending tractor”.

The evidence of the claimant/respondent No.1 and Mr. Dipankar Hazarika, the eye witness remains un-impeached during the cross-examination by the appellant/insurer. The appellant/insurer had in fact not led any evidence to disprove the factum of the accident as deposed by the claimant and the eye witness. The fact that the claimant/respondent No.1 was not present at the spot on the day of the accident by itself cannot discredit the statement given by her before the Tribunal as it was the claimant/respondent No.1 who had appeared in person to lodge the FIR before the police on 04/02/2017 after receiving the information about the accident from her brother-in-law. The statement of the claimant/respondent No.1 on the factum of the accident is also corroborated by the evidence of the eye witness. The law is also well settled that in a case relating to motor accident claims, the claimant are not required to prove the factum of the accident as it is required to be done in a criminal trial. The claimant is to merely establish his/her case on the touchstone of preponderance of probability. The strict proof of accident beyond reasonable doubt is not applicable to accident cases.

In the case of **Kusum Lata & Others** -versus- **Satbir & Another**, reported in **(2011) 3 SCC 646**, the Hon'ble Supreme Court has held as follows;

“9. There is no reason why the Tribunal and the High Court would ignore the otherwise reliable evidence of Dheeraj Kumar. In fact, no cogent reason has been assigned either by the Tribunal or by the High Court for discarding the evidence of Dheeraj Kumar. The so-called reason that as the name of Dheeraj Kumar was not mentioned in the FIR, so it was not possible for Dheeraj

Kumar to see the incident, is not a proper assessment of the fact situation in this case. It is well known that in a case relating to motor accident claims, the claimants are not required to prove the case as it is required to be done in a criminal trial. The Court must keep this distinction in mind.

10. Reference in this connection may be made to the decision of this Court in Bimla Devi v. Himachal RTC¹, in which the relevant observation on this point has been made and which is very pertinent and is quoted below: (SCC p.534, para-15)

"15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied."

So also in the case of **Janabai WD/O Dinkarrao Ghorpade & Others -versus- ICICI Lambord Insurance Co. Ltd.**, reported in **(2022) 10 SCC 512**, the Hon'ble Supreme Court has held as follows;

"11. We find that the rule of evidence to prove charges in a criminal trial cannot be used while deciding an application under Section 166 of the Motor Vehicles Act, 1988 which is summary in nature. There is no reason to doubt the veracity of the statement of appellant No. 1 who suffered injuries in the accident. The application under the Act has to be decided on the basis of evidence led before it and not on the basis of evidence which should have been or could have been led in a criminal trial. We find that the entire approach of the High Court is clearly not sustainable".

In view of the discussions made above, this Court is inclined to hold that the accident involving the offending vehicle (tractor) bearing Registration No. AS-07-AC/1373 occurred due to the rash and negligent driving of the driver i.e. the respondent No.6.

Further, on the contention that the death of the deceased was not as a result of the said accident and is therefore, not entitled to receive any compensation, it is relevant to reproduce the deposition of the claimant/respondent No.1 before the Tribunal;

".....the offending tractor pulling one threshing machine to thresh

the mustard seeds and on the way before reaching Singia village due to rash and negligent driving the driver pulled the threshing machine on the stem of a tree resultantly the threshing machine over turned on my pedestrian husband and also Shri. Jitu Bura Gohain. In the accident my husband died instantaneously and his accompanies Shri Jitu Bura Gohain sustained grievous injuries."

"The dead body of my husband was post mortem by competent medical authority."

"To substantiate my claim I mark and exhibit the following documents : original copy of police report issued under Form-54 as P-2, certified true copy of FIR as P-3, original certified true copy of the GD Entry along with the translate copy thereof as Exhibit P-4.....post mortem report of my husband as P-8."

The deposition of Dipankar Hazarika, the eye witness to the accident is also reproduced as under;

"The driver of the offending tractor was pulling one thresher machine for threshing of mustard seeds; he was in high speed and suddenly one wheel of the thresher machine rammed on a stem of a tree; resultantly the thresher machine overturned on two pedestrians wherein one died on the spot and other one sustains grievous injuries. Having seen the accident we were helping the victims in front of police."

In cross-examination by the appellant/insurer, the eye witness has stated as follows;

"It is correct to say that I was at about 25-30 ft. distance from the spot of accident."

"It is correct to say that I have seen by my own eyes that thresher machine overturn over the two persons."

The appellant/insurer in the cross-examination before the Tribunal has not led any evidence to rebut the veracity of the statements made by the claimant/respondent No.1 as well as by the eye witness. The statement given by the claimant/respondent No.1 and the eye witness during the cross-examination only reaffirms the evidence given in the examination-in-chief. The appellant/insurer has also not disputed the FIR lodged with the police on the accident and the post-mortem report of the deceased. No evidence has been led by the appellant/insurer to disprove/rebut the documents exhibited by the

claimant/respondent No.1 before the Tribunal. This Court can therefore conveniently conclude that the husband of the claimant/respondent No.1 died on 04/02/2017 as a result of the accident involving the vehicle (tractor) B/R No. AS-07-AC/1373.

The learned Tribunal after discussing the Issue No.(ii) in the claim petition has also held as under;

“The un-rebutted evidence of the PW.1 & 2 corroborated by documentary evidence of accident report, FIR, GD Entry and post-mortem report exhibited during the trial it is prove that the deceased died in the accident dated 4.2.17 due to rash and negligent driving of the driver of the offending vehicle No. AS-07-AC/1373 (tractor). The issue is decided in the affirmative.”

In view of the discussion above, the first ground of appeal raised by the appellant/insurer is rejected.

10. The second and the third ground of appeal which is in regard to the income of the deceased is taken up simultaneously. Before the Tribunal, the claimant/respondent No.1 who is the wife of the deceased has deposed as follows;

“..... At the time of accident my deceased husband was 38 years old and doing his profession as agriculturist, piggery farming also selling of local pork meat and broiler chicken also working as Driver of a power driller. While surviving my husband used to earn Rs. 15,000/- per month through all his business and thereby maintaining ourselves and providing day to day needs to our family. Due to sudden demise of my husband we are suffering financial crisis and to meet up our day to day expenditures, presently I am earning as maid servant by giving services in various families.”

In the cross-examination by the vehicle owner, the claimant/respondent No.1 has stated as follows;

“I agree that there is no document in regard to income and occupation of my deceased husband so also the age of my deceased husband.”

In the cross-examination by the appellant/insurer, the claimant/respondent No.1 has stated as follows;

“It is correct that I did not produce any documents to proof of the monthly income of my late husband.”

“It is correct to say that my husband was 38 years at the time of alleged accident.”

“It is correct to say that my husband owned a plot of agricultural land of about 3 bigas.”

From the cross-examination of the claimant/respondent No.1 it is seen that the vehicle owner i.e. the present respondent No.5 and the appellant/insurer has nowhere disputed the avocation and the income of the deceased. No evidence has been led to discredit the claimant/respondent No.1 on the avocation and the income of her deceased husband. The claimant/respondent No.1 in her cross-examination has only stated that she has no documents to prove the occupation and the income of her deceased husband.

The learned Tribunal while deciding the Issue No.(iv) of the claim petition has held as follows;

“It is a fact that the claimant has not produced any documentary proof regarding the income of the deceased. However, the claimant/respondent No.1 has stated in the claim petition as well as in her deposition as PW-1 that the deceased was a farmer and engaged in piggery farming, sale of pork, and broiler chicken and also a part time power tiller driver. The claimant No.1/PW-1 also stated in her cross-examination that her husband owned a plot of agricultural land of about three bighas. In a case like the present one where the deceased was a self employed farmer it is not possible to produce documentary proof. The fact that the deceased owned land of about three bighas would mean that he had enough space to take up different kind of activities. It would be therefore reasonable to hold that the deceased was earning Rs.10,000/- per month.”

In the case of **Syed Sadiq & Others -versus- Divisional Manager, United India Insurance Co. Ltd.**, reported in **(2014) 2 SCC 735**, the Hon'ble Supreme Court has held that;

“8. The appellant/claimant in his appeal further claimed that he had been earning Rs. 10,000/- p.m. by doing vegetable vending work. The High Court however, considered the loss of income at Rs. 3500/- p.m.

considering that the claimant did not produce any document to establish his loss of income. It is difficult for us to convince ourselves as to how a labour involved in an unorganized sector doing his own business is expected to produce documents to prove his monthly income. In this regard, this Court, in the case of *Ramchandrappa v. Royal Sundaram Alliance Insurance Co. Ltd.*⁶, has held as under: (SCC pp. 242-43, para 13-15)

“13. In the instant case, it is not in dispute that the Appellant was aged about 35 years and was working as a Coolie and was earning Rs.4500/- per month at the time of accident. This claim is reduced by the Tribunal to a sum of Rs. 3000/- only on the assumption that wages of the labourer during the relevant period viz. in the year 2004, was Rs.100/- per day. This assumption in our view has no basis. Before the Tribunal, though the Insurance Company was served, it did not choose to appear before the Court nor did it repudiated the claim of the claimant. Therefore, there was no reason for the Tribunal to have reduced the claim of the claimant and determined the monthly earning a sum of Rs.3000/- p.m. Secondly, the Appellant was working as a Coolie and therefore, we cannot expect him to produce any documentary evidence to substantiate his claim. In the absence of any other evidence contrary to the claim made by the claimant, in our view, in the facts of the present case, the Tribunal should have accepted the claim of the claimant.

14. We hasten to add that in all cases and in all circumstances, the Tribunal need not accept the claim of the claimant in the absence of supporting material. It depends on the facts of each case. In a given case, if the claim made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time.

15. In the present case, Appellant was working as a Coolie and in and around the date of the accident, the wage of the labourer was between Rs.100/- to Rs.150/- per day or Rs.4500/- per month. In our view, the claim was honest and bonafide and, therefore, there was no reason for the Tribunal to have reduced the monthly earning of the Appellant from Rs. 4500/- to Rs. 3000/- per month. We, therefore, accept his statement that his monthly earning was Rs. 4500/-.”

9. *There is no reason, in the instant case for the Tribunal and the High Court to ask for evidence of monthly income of the appellant/claimant. On the other hand, going by the present state of economy and the rising prices in agricultural products, we are inclined to believe that a vegetable vendor is reasonably capable of earning Rs. 6,500/- per month.*"

Furthermore, in the case of **Shivakumar M -versus- Managing Director, Bengaluru Metropolitan Transport Corporation**, reported in **(2017) 5 SCC 79**, the Hon'ble Supreme Court has held that;

"5. No doubt, there was no evidence available with regard to the income of the appellant but there is no dispute on the fact that he was a painter by profession. The accident happened in the year 2013 when he was living in Bangalore, Karnataka. For a casual worker, who goes from house to house and place to place doing his painting work it is difficult to get any evidence, since there is no employer. He does his daily work, sometimes piece rated work as well. That is why he made a moderate self estimation of his income to Rs.15,000/- to Rs.16,500/-.

6. In the absence of any serious dispute on the part of the respondent on the avocation and income, we are of the view that the Tribunal and for that matter the High Court should have accepted the evidence of the appellant. Therefore, we assess his monthly income as Rs.15,000/- and after deducting one third towards his personal expenses, the income will be assessed for the purpose of computation of compensation as Rs.10,000/- per month. The income is substituted as Rs.10,000/- in the place of Rs.6,500/- , as assessed by the High Court. The compensation will carry interest at the rate of 9% per annum from the date of the claim petition before the Tribunal. Rest of the award is maintained."

In the present case, it is the case of the claimants/respondents that the deceased was earning Rs. 15,000/- p.m by engaging in agriculture, piggery farming, selling pork and broiler chicken and working as power tiller driver on part time basis. This avocation of the deceased and his earning of Rs. 15,000/- per month has not been disputed by the appellant/insurer in any manner whatsoever before the Tribunal. Moreover, considering that the deceased was involved in self employment in an un-organized sector it could not have been possible for the claimant to produce documents to prove his avocation and monthly income. The learned Tribunal after taking into consideration the un-

rebutted evidence of the claimants and taking all relevant facts into consideration has held that the deceased was earning Rs. 10,000/- per month. This Court is therefore of the view that the non production of the documentary evidence to prove the income of the deceased cannot be a ground to deny compensation to the claimants/respondents and accepts the finding of the Tribunal that the deceased was earning Rs. 10,000/- per month.

The appellant, further by introducing the notification dated 30/05/2017 issued by the Government of Assam, Office of the Labour Commissioner, Assam has contended that the deceased being an un-skilled workmen his daily wage/income should have been fixed at Rs. 257.40 per day and accordingly his monthly income should have been calculated at Rs. 7722.00 as per the said notification and not as calculated by the learned Tribunal. This ground of appeal cannot be accepted at this stage. The notification dated 30/05/2017 was never exhibited by the appellant before the learned Tribunal nor was any evidence led on the said notification. This Court is therefore not inclined to discuss the notification dated 30/05/2017 vis-à-vis the income of the deceased.

11. The last ground of appeal raised by the appellant/insurer is that the 9% interest p.a awarded on the compensation amount is unreasonable and in violation of the law and only 6% interest should have been awarded. The appellant has however not justified as to why the 9% interest p.a should be reduced to 6% interest p.a. Section 171 of the Motor Vehicles Act, 1988 provides that where any claims Tribunal allows a claim for compensation made under this Act, such Tribunal may 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 it may specify in this behalf. In the present case, the learned Tribunal has awarded Rs. 20,00,000/- as compensation which also includes the interim award of Rs. 50,000/- and the appellant/insurer has been directed to pay the compensation with interest @ 9% from the date of filing the claim petition till full satisfaction of the award and the appellant has been directed to pay the compensation within 1(one) month's time from the date of the order. The direction of the Tribunal to pay 9% interest p.a on the awarded amount is in conformity with the mandate of

section 171 of the M.V Act, 1988. This Court therefore does not find any infirmity with the findings of the Tribunal to pay 9% interest p.a on the awarded amount.

In the case of **Kaushnuma Begum (Smt) & Others -versus- New India Assurance Co. Ltd.,& Others**, reported in **(2001) 2 SCC 9**, the Hon'ble Supreme Court in fixing the rate of interest on the compensation awarded has 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 the 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. The amount of Rs.50,000/- paid by the Insurance Company under Section 140 shall be deducted from the principal amount as on the date of its payment, and interest would be recalculated on the balance amount of the principal sum from such date.”

So also, the Hon'ble Supreme Court in the case of **Bhartiben Nayabha Ker & Others -versus- Sidabha Pethabha Manke & Others**, reported in AIR 2018 SC 2728, in the case of **Manusha Sreekumar & Others -versus- United India Insurance Co. Ltd.** reported in AIR 2022 SC 5161, in the case of **Kanh Singh & Another -versus- Tukaram & Others** reported in (2015) 11 SCC 343 and in a catena of decisions has held that the 9% interest p.a on the compensation amount to be proper.

12. In the light of the discussions made above, this Court is of the view that the present appeal has no merit and is accordingly dismissed. The judgment dated 30/05/2020 passed by the learned Member Motor Accident Claims Tribunal, Dimapur, Nagaland is upheld.

13. The appellant/insurer shall accordingly pay the compensation amount of Rs. 20,00,000/- (Rupees Twenty lakhs) only with 9% interest p.a from the date of filing of the claim petition till final satisfaction of the award. The interim award of Rs. 50,000/- (Rupees Fifty thousand) only paid to the claimant and the 50% of the compensation amounting to Rs. 9,75,000/- (Rupees Nine lakh seventy five thousand) only deposited by the appellant/insurer and received by the claimants/respondents shall be deducted from the awarded amount with effect from the date it was deposited. The compensation/award shall thereafter be re-calculated and the claimant shall be entitled to the balance amount of compensation with 9% interest p.a as aforesaid. The amount payable to the claimants/respondents shall be deposited by the appellant, before the Tribunal, not later than 30(thirty) days from the date of this judgment.

14. Send back the LCR forthwith.

Sd/-

JUDGE

Comparing Assistant