

GAHC010285832018



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

**Case No. : MACApp./31/2019**

NATIONAL INSURANCE CO. LTD  
HAVING ITS REGISTERED AND HEAD OFFICE AT 3, MIDDLETON STREET,  
KOLKATA 700071 AND ONE OF THE REGIONAL OFFICE AT G.S. ROAD,  
BHANGAGARH, GUWAHATI 781005

VERSUS

ON THE DEATH OF BAKUL CHETIAH, HIS LEGAL HEIR-  
S/O DIMBESWAR CHETIA, R/O VILL. SANTAPUR, P.O. LAHALIAL, P.S.  
BIHPURIA, DIST. LAKHIMPUR, ASSAM, PIN 784160

1:a) PINKY CHETIA  
W/O LT. BAKUL CHETIA  
R/O VILL. SANTAPUR  
P.O. LAHALIAL  
P.S. BIHPURIA  
DIST. LAKHIMPUR  
ASSAM  
PIN 784161

1:c) REKHA CHETIA  
AGE 6 MONTHS  
D/O LT. BAKUL CHETIA  
R/O VILL. SANTAPUR  
P.O. LAHALIAL  
P.S. BIHPURIA  
DIST. LAKHIMPUR  
ASSAM  
PIN 784161

1:b) MISS BORNALI CHETIA  
D/O LT. BAKUL CHETIA

R/O VILL. SANTAPUR  
P.O. LAHALIAL  
P.S. BIHPURIA  
DIST. LAKHIMPUR  
ASSAM  
PIN 784161

1:d) LALITA CHETIA  
MOTHER OF LT. BAKUL CHETIA  
R/O VILL. SANTAPUR  
P.O. LAHALIAL  
P.S. BIHPURIA  
DIST. LAKHIMPUR  
ASSAM  
PIN 784161

2:MD. SAHID ALI  
S/O MD. MANNAF ALI  
R/O WARD NO. 3  
P.O. AND P.S. ABHYAPURI  
DIST. BONGAIGAON  
ASSAM  
PIN 783384

3:SAJIDUR RAHMAN  
S/O MD. AKBAR ALI  
R/O C.D. ROAD  
WARD NO. 3  
P.O. AND P.S. LAKHIMPUR  
DIST. LAKHIMPUR  
ASSAM  
PIN 7870001

4:CHIEF REGIONAL MANAGER  
UNITED INDIA INSURANCE CO. LTD.  
CHIBBER HOUSE  
M.S.S. PATH  
CHRISTIANBASTI  
P.O. AND P.S. DISPUR  
GUWAHATI  
ASSAM  
PIN 781005

5:JAYANTA BHUYAN  
S/O MANIK BHUYAN  
R/O VILL. SANDAHHOWA  
P.O. AND P.S. LAKHIMPUR  
DIST. LAKHIMPUR

ASSAM  
PIN 78700

**Advocate for the Petitioner** : MR. A J SAIKIA, MR. K BORAH,MR. U K DUTTA,MS B KASSHYAP,MR. B KAKATI

**Advocate for the Respondent** : MR. P GOGOI, MR. B BARUAH,FOR CAVEATOR,MS. M ACHARYYA,MR. R CHOUDHURY,MR B ACHARYYA,MR. B J MUKHERJEE,MR. P GOGOI,MR. B BARUAH

Linked Case : I.A.(Civil)/135/2019

NATIONAL INSURANCE CO. LTD  
HAVING ITS REGISTERED AND HEAD OFFICE AT 3  
MIDDLETON STREET  
KOLKATA 700071 AND ONE OF THE REGIONAL OFFICE AT G.S. ROAD  
BHANGAGARH  
GUWAHATI 781005

VERSUS

SHRI BAKUL CHETIA AND 4 ORS  
S/O DIMBESWAR CHETIA  
R/O VILL. SANTAPUR  
P.O. LAHALIAL  
P.S. BIHPURIA  
DIST. LAKHIMPUR  
ASSAM  
PIN 784160

2:MD. SAHID ALI  
S/O MD. MANNAF ALI  
R/O WARD NO. 3  
P.O. AND P.S. ABHYAPURI  
DIST. BONGAIGAON  
ASSAM  
PIN 783384

3:SAJIDUR RAHMAN  
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GUWAHATI  
ASSAM  
PIN 781005

5:JAYANTA BHUYAN  
S/O MANIK BHUYAN  
R/O VILL. SANDAHKHOWA  
P.O. AND P.S. LAKHIMPUR  
DIST. LAKHIMPUR  
ASSAM  
PIN 787001

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Advocate for : MR. A J SAIKIA  
Advocate for : MR. P GOGOI appearing for SHRI BAKUL CHETIA AND 4 ORS

**::: PRESENT:::**

**THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

For the Appellant : Mr. A.J. Saikia,  
Advocate.

For the Respondents: Mr. B. Baruah and  
Mr. H. Buragohain, Advocates.

Date of Hearing : 02.08.2024.  
Date of Judgment : 28.10.2024.

**JUDGMENT AND ORDER (CAV)**

Heard Mr. A.J. Saikia, learned counsel representing the appellant as well as Mr. B. Baruah and Mr. H. Buragohain learned counsel appearing for the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 09.10.2018 passed by the learned Member, Motor Accident Claims Tribunal No.2, Kamrup (Metro), Assam in MAC Case No.62/2014.

3. On 05.10.2013 at about 11.30 A.M., Sri Bakul Chetia was working as a handyman in vehicle bearing Registration No. AS-07-C-0631 (Trax Cruiser). On that day, the vehicle was plying from North Lakhimpur side towards Bihpuria. When the said vehicle stopped at Gendheli for picking up passengers, one MAX Pickup Van bearing Registration No. AS-03-E-1608 had hit Bakul Chetia. He sustained grievous injuries. As a result of which, both the legs of Bakul Chetia had to be amputated.
4. At the time of the accident, Bakul Chetia was 22 years old and he was earning ₹5,000/- per month.
5. A claim petition was filed before the Tribunal. The Insurance Company had contested the case by filing written statement. According to the Insurance Company, the vehicle in which Bakul Chetia was working had collided with the vehicle bearing Registration No. AS-07-C-0631. The Insurance Company claimed that the accident occurred because of the vehicle where Bakul Chetia was travelling.
6. The claimant examined himself only. He submitted medical vouchers. The present appellants did not examine any witness.
7. Finally, the Tribunal allowed the claim petition and directed the appellant Insurance Company to pay a compensation of ₹27,11,038/- along with existing bank interest.
8. Aggrieved by the aforesaid judgment, the appellant Insurance Company filed the present appeal.
9. I have considered the submission made by the learned counsel of both sides.
10. This Court is of the opinion that the learned Tribunal has erroneously calculated the compensation amount.
11. The calculation should have been like this-

1. Income ₹5,900/-
2. Future prospect @ 40% ₹2,360/-

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₹8,260/-

**Annual Income :** ₹8,260 x 12 = ₹99,120/-

After deduction of 25% for personal expenses, the 75% of the annual income will be : ₹99,120 – ₹24,780/-

= ₹74,340/-

**Multiplier 18 (for age 21 to 25 years) :**

₹74,340 x 18 = ₹13,38,120/-

**Total Compensation**

|                         |   |              |
|-------------------------|---|--------------|
| Loss of Income          | : | ₹13,38,120/- |
| Medical Expenditure     | : | ₹1,61,638/-  |
| Attendance Charges      | : | ₹25,000/-    |
| Nutrition and diet etc. | : | ₹25,000/-    |

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₹15,49,758/-

**12.** The appeal is allowed. The impugned judgment and award dated 09.10.2018 passed by the learned Member, Motor Accident Claims Tribunal No.2, Kamrup (Metro) in MAC Case No.62/2014 stands modified accordingly.

**13.** The Insurance Company is directed to pay ₹15,49,758/- to the claimant along with interest at the rate of 6% per annum to be calculated from the date of filing of the claim petition. The compensation amount shall be deposited within next 6(six) weeks in the Motor Accident Claims Tribunal No.2, Kamrup (M), Guwahati.

**14.** The statutory deposit shall be returned to the Insurance Company.

Send back the LCR.

**JUDGE**

**Comparing Assistant**