

GAHC010167112022



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

Case No. : MACApp./530/2022

NGANGOM RANJITA DEVI AND ANR
W/O LATE NG ROMESH SINGH, VILLAGE TOUBUL MANING LEIKAI, PO, PS
AND DIST BISHNUPUR, MANIPUR, 795126

2: NG RENJNARA DEVI

D/O LATE NG ROMESH SINGH

VILLAGE TOUBUL MANING LEIKAI

PO

PS AND DIST BISHNUPUR

MANIPUR

795126

BEING MINOR TO BE REPRESENTED BY HER MOTHER CUM NATURAL
GUARDIAN APPELLANT NO.

VERSUS

ORIENTAL INSURANCE CO. LTD AND 3 ORS
CHRISTAIN BASTI, AMARVATI PATH, GS ROAD, GUWAHATI 7811005 DIST
KAMRUP M ASSAM, INSURER OF THE VEHICLE NO. AS-18/C-0328(TRUCK)

2:SMT. MAMATA SAHA

W/O SRI HARU SAHA

RESIDENT OF BORO BAZAAR

BT ROAD

WARD NO. 10

BONGAIGAON

PO AND DIST BONGAIGAON

ASSAM 783380

OWNER OF VEHICLE NO. AS-18/C-0328(TRUCK)

Advocate for the Petitioner : MR. B J MUKHERJEE

Advocate for the Respondent : MR. H BURAGOHAIN (r-2)

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

Judgment and Order (CAV)

Date : 14-06-2024

1. This appeal has been preferred under Section 173 of the Motor Vehicle Act, 1988, against the impugned Judgment and Order dated 04.07.2017, passed by the learned Court of the Motor Accident Claims Tribunal, Bongaigaon in MAC Case No.21/2015, whereby the respondent/Oriental Insurance Company Limited has been directed to pay compensation amount of Rs.34,10,562/-only to the claimant along with interest @ 6% per annum from the date of filing of the claim petition i.e., from 21.02.2015 till its realization.

2. Heard Mr. B. J. Mukherjee, learned counsel for the appellant. I have also heard Mr. S. Dutta, learned counsel for the respondent/Oriental Insurance Company Limited.

3. At the very outset of hearing, the learned counsel for the appellants has made it clear that the factum of the case is not disputed. He further made it clear that in the instant case, the appellant has a limited prayer specifically for inclusion of the future prospect of the deceased in the award as the same has not been included in the impugned Judgment and award. For better

understanding, the prayer of the appellant/claimants for inclusion as stated below:

Sl. No.	Heads	Calculation
1	Income after deduction of Tax (as in the impugned order)	Rs. 2,81,079/-
2	Future Prospect 50%	Rs. 1,40,539.50/-
3	Future Prospect + Income	Rs. 1,40,539.50 + 2,81,079 = Rs.4,21,618.5/-
4	Deduction of personal expenses 1/3 rd	Rs. 4,21,618.5 – 1,40,539.5 = Rs. 2,81,079/-
5	Multiplier by : 17	Rs.(2,81,079 x 17) = Rs. 47,78,343/-

4. The learned counsel for the respondent/Insurance Company submits that he has agreed and accepted the above proposal made by the appellant for enhancement. However, the learned counsel for the respondent submits that the claimants is not entitle for any interest on the above proposed amount on future prospect; hence, no interest shall accrue against the above income of future prospect to be awarded to the appellant.

5. The learned counsel for the appellant/claimant has also acceded to the submission made by the learned counsel for the respondent/Oriental Insurance Company that there shall be no interest accrue on the future prospect to be added into the award.

6. It is submitted that both the parties have mutually settled the matter and agreed for addition of "Future Prospect" in the final award granted to the appellant/claimant. It is further submitted that they have worked out the proposed modified in the original award by adding future prospect in the award and the same has been placed before this Court for consideration, which is taken on record. The proposal submitted by the parties are reproduced below:

SI No.	Heads	Calculation
1	Income after deduction of Tax (as in the impugned order)	Rs. 2,81,079/-
2	Future Prospect 50%	Rs. 1,40,539.50/-
3	Future Prospect + Income	Rs. 1,40,539.50 + 2,81,079 = Rs.4,21,618.5/-
4	Deduction of personal expenses 1/3 rd	Rs. 4,21,618.5 – 1,40,539.5 = Rs. 2,81,079/-
5	Multiplier : 17	Rs.(2,81,079 x 17) = Rs. 47,78,343/-

7. Upon consideration of the submissions made by the learned counsel for the parties and having examined the record and the proposed modification of the awarded amount by including additional award under head "Future Prospect" in the original award, which has been mutually agreed upon by the parties, this Court is satisfied that the parties have reached on consensus for modification of the quantum by adding award under head "Future Prospect" in the original award.

8. Having taken into account the above mentioned proposed addition for addition of award, this Court hereby allows the mutually agreed

terms of modification and addition on the quantum of compensation calculated by the parties as indicated above. Thus, after addition, the detail of the modified compensation awarded amount and its distribution are as follows:

Sl. No.	HEADS	CALCULATION
(i)	Monthly salary	Rs.26,356/-
(ii)	Net salary	Rs.24,174/-
(iii)	Annual salary	Rs.2,90,088/- (Rs.24,174 x 12)
(iv)	Standard deduction	Rs.2,00,000/-
(v)	Actual taxable income	Rs.90,088/- (Rs.2,90,088 – 2,00,000)
(vi)	Tax on income (less 10%)	Rs.9,009/-
(vii)	Income after deduction of tax	Rs.2,81,079/- (Rs.2,90,088 – Rs.9,009)
(viii)	Future Prospect 50%	Rs.1,40,539.50/-
(ix)	Future Prospect + Income	Rs.1,40,539.50+2,81,079= Rs.4,21,618.5
(x)	Deduction of personal expenses 1/3 rd	Rs.4,21,618.5 – 1,40,539.5=Rs.2,81,079/-
(xi)	Multiplier 17	Rs. (2,81,079 x 17)=Rs.47,78,343/-
(xii)	Loss of Dependency	Rs.47,78,343/-
(xiii)	Loss of Consortium	Rs.48,400/-
(xiv)	Loss of Care and guidance for minor	Rs.48,400/-
(xv)	Funeral expenses	Rs.18,150/-
(xvi)	Loss of Estate	Rs.18,150/-
	Total =	Rs.49,11,443/-

9. Accordingly, the respondent/Oriental Insurance Company Limited is directed to pay a compensation amount of Rs. 49,11,443/-(Rupees Forty Nine lakh Eleven thousand Four hundred Forty Three only), to

the claimants along with interest @ 6% p.a. from the date of filing of the claim petition i.e., from 21.02.2015 till its realization.

10. However, it is made clear that the future prospect amounting to Rs.1,40,539.50/- only, will not bear any interest from 21.02.2015 till its realization (i.e. on $\text{Rs.1,43,539.50} \times 17 = \text{Rs.23,89,171/-}$).

11. The respondent/ Oriental Insurance Company is directed to pay the said amount in terms of the direction of the learned tribunal in Judgment and Order dated 04.07.2017, within a period of 6(six) weeks from the date of received of this order.

12. The appeal is allowed to the extent as indicated above, and the Judgment and award of the learned tribunal dated 04.07.2017 shall stands modified accordingly.

13. With the observation made above, the appeal is disposed in terms above.

14. Send the record back immediately.

JUDGE

Comparing Assistant