

GAHC010184442024



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

Case No. : Review.Pet./172/2024

ORIENTAL INSURANCE CO LTD
HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE, ASAF ALI ROD,
25/27, NEW DELHI 110002 AND REGIONAL OFFICE AT GUWAHATI 7, REP.
BY THE REGIONAL MANAGER

VERSUS

ANUBHAV KHOUND AND 2 ORS
S/O SRI SAPON KR. KHOUND, BHAGYA MAMA PATH, P.S. GEETANAGAR,
GUWAHATI, DIST. KAMRUP (ASSAM), PIN 781020

2:ANJIT BORAH

S/O SRI GOBINDA CH. BORAH
H/NO. 1
BYE LANE 3 ZOO NARENGI ROAD
HATIGARH CHARIALI
DIST. KAMRUP
ASSAM

3:SRI SUBHASH PRASAD
S/O R.L PRASAD

C/O ANJIT BORAH

RESIDENT OF
H/NO. 1
BYE LANE 3 ZOO NARENGI ROAD
HATIGARH CHARIALI
DIST. KAMRUP
ASSA

Advocate for the Petitioner : MS. M CHOUDHURY, MR SISHIR DUTTA

Advocate for the Respondent : ,

Linked Case : MACApp./40/2021

SRI ANUBHAV KHOUND
S/O SRI SAPON KR. KHOUND
BHAGYA MAMA PATH
P.S. GEETANAGAR
GUWAHATI
DIST. KAMRUP (ASSAM)
PIN 781020

VERSUS

REGIONAL MANAGER ORIENTAL INSURANCE CO. LTD AND 2 ORS
ULUBARI
GUWAHATI

Advocate for : MS D D ROY
Advocate for : MS C BORAH (R-1) appearing for REGIONAL MANAGER
ORIENTAL INSURANCE CO. LTD AND 2 ORS

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

25.10.2024

Heard Ms. M. Choudhury, learned counsel for the petitioner. Also heard Ms. D. D. Roy, learned counsel for the respondent/claimant.

This application is filed under Section 114 *read with* Order XLVII Rule 1 of the Code of Civil Procedure, 1908, praying for a review of the Judgment dated 21.08.2024, passed by this Court in connection with MAC. App. Case No. 40/2021.

It is submitted by the learned counsel for the petitioner/Insurance Company that there is an inadvertent mistake in calculating the compensation for the disability amount. Although the disability was assessed at 60%, the total amount was calculated as Rs. 30,24,000/- in paragraph 22 of the said judgment, instead of the correct figure of Rs. 18,14,400/- ($14,000 \times 12 \times 18 \times 60\%$). Additionally, in paragraph 25, the total amount is inadvertently calculated as Rs. 43,68,000/- instead of Rs. 31,58,400/-. Accordingly, she prays for correction of the compensation amount towards the disability amount and the total amount.

In this regard, Ms. Roy, learned counsel for the respondent, raised no objection to the prayer made by the learned counsel for the petitioner/Insurance Company.

Mr. Choudhury, learned counsel for the petitioner, further submitted that the earlier awarded amount, i.e., Rs. 23,80,000/- along with 7.5%, has already been deposited before the learned Member, Motor Accident Claims Tribunal (in short 'MACT') No. 3, Kamrup (M), Guwahati, and the petitioner (Insurance

Company) is still ready to pay the additional amount calculated by this Court vide Judgment dated 21.08.2024 in MAC. App. Case No. 40/2021.

In view of the above, this Review Petition is allowed, and the Judgment dated 21.08.2024, passed in MAC.App. Case No. 40/2021, stands corrected and modified to the extent indicated below:

“ **Para-22.** However, the learned Trial Court correctly noted that the disability of 85% pertains to a specific limb rather than the whole body, as indicated by the medical evidence. It is also considered that the appellant is using an artificial limb for walking and has spent Rs. 1,04,000/- on it. Consequently, the learned Member, MACT (3) had rightly assessed his functional disability at 60% and based on the revised income of Rs. 14,000 per month, the total amount would be Rs. 18,14,400/- ($14,000 \times 12 \times 18 \times 60\%$) (Rupees eighteen lakhs fourteen thousand and four hundred) only.....”

Para-25. In light of the detailed discussion made above and considering the judgments of the Apex Court relied upon by both parties, the following compensation is assessed and awarded to the appellant:

Sl. No.	HEADS OF CLAIM	AMOUNT (RS.)
1.	Loss of income @ 10,000 for 3 months	30,000/-
2.	Medical Expenses (actual expenditure)	
(i)	Medicines	
(ii)	Hospital Charges	
(iii)	Attendant Charges	9,00,000/-
(iv)	Special Diet	
(v)	Transportation	
3.	Pain & Suffering (amputation of right mid upper thigh)	50,000/-
4.	Disability	18,14,400/-

5.	Loss of amenities	50,000/-
6.	Marriage Perspective	2,00,000/-
7.	Diet and Nutrition	10,000/-
8.	Cost of artificial limb	1,04,000/-
	Total=(RS.)	31,58,400/-

This order passed in Review Petition may be treated to be a part of the Judgment dated 21.08.2024 (MAC.App./40/2021).

In the meantime, the learned counsel for the petitioner is hereby directed to deposit the additional amount awarded by this Court in its judgment dated 21.08.2024 before the learned MACT, Kamrup (M).

In terms of above, this Review Petition stands disposed of.

JUDGE

Comparing Assistant