

GAHC010193112020



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

Case No. : MACApp./5/2021

NEW INDIA ASSURANCE COMPANY LTD.
HAVING ITS REGISTERED AND HEAD OFFICE AT NEW INDIA ASSURANCE
BUILDING, 87, MAHATMA GANDHI ROAD, FORT, MUMBAI- 400001 AND
REGIONAL OFFICE AT G.S. ROAD, GUWAHATI-5, REP. BY THE CHIEF
REGIONAL MANAGER.

VERSUS

MUSSTT. MITA BEGUM LASKAR AND 6 ORS.
W/O- LATE JAINUL HAQUE LASKAR, R/O- VILL.- BIDRUIPAR, P.O.
HATIKHAL BAZAR, P.O. KACHUDARAM, DIST.- CACHAR, ASSAM.

2:MD. IMDADUL HUSAIN LASKAR
R/O- VILL.- BIDRUIPAR
P.O. HATIKHAL BAZAR
P.O. KACHUDARAM
DIST.- CACHAR
ASSAM.

3:MISS MUSTAKANA BEGUM LASKAR
R/O- VILL.- BIDRUIPAR
P.O. HATIKHAL BAZAR
P.O. KACHUDARAM
DIST.- CACHAR
ASSAM.

4:MISS MOMTAJUN BEGUM LASKAR
R/O- VILL.- BIDRUIPAR
P.O. HATIKHAL BAZAR
P.O. KACHUDARAM
DIST.- CACHAR
ASSAM.

5:MD. ABDULLA CHOUDHURY
S/O- TAYEB ALI
VILL.- KHAYRABAD FOREST VILLAGE
P.O. AND P.S. JIRIGHAT
DIST.- CACHAR
ASSAM.

6:MD. BABAREL CHOUDHURY
S/O- JAMAL UDDIN
R/O- VILL.- NEW KHAYRABAD
P.O. AND P.S. JIRIGHAT
DIST.- CACHAR
ASSAM

Advocate for the Petitioner : MR SISHIR DUTTA
Advocate for the Respondent : MR N RAY

::: PRESENT:::

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellant : Mr. S. Dutta,
Senior Advocate.

For the Respondents : Mr. M. Choudhury,
Advocate.

Date of Hearing : 20.06.2024.

Date of Judgment : 25.07.2024.

JUDGMENT AND ORDER (CAV)

Heard Mr. S. Dutta, learned senior counsel representing the appellant as well as Mr. M. Choudhury, 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 17.02.2020, passed by the learned Member, Motor Accident Claims Tribunal, Cachar at Silchar in MAC Case No.53 of 2016.

3. On 16.09.2015, the deceased Jainul Haque Laskar was travelling in a TATA Sumo vehicle bearing Registration No.AS-11BC-7960. He was going from Lakhipur towards Okhrul. The said vehicle was allegedly driven in a rash and negligent manner. When the vehicle reached Awangkhum

Part-II at about 3.30 P.M., the vehicle veered from the road and plunged into a deep gorge.

4. Because of the said accident, the Jainul Haque Laskar died instantly. He was 41 years of age at that time and being a Mason, he used to earn ₹20,000/- per month.

5. It may be stated that after the accident, Nungba/Nuba P.S. Case No.68(09)/2015 was registered.

6. The Motor Accident Claims Tribunal directed the appellant Insurance Company to pay a sum of ₹23,62,500/- (Rupees Twenty-Three Lakhs Sixty-Two Thousand and Five Hundred) only as compensation.

7. The Insurance Company has filed this appeal on the ground that the learned Tribunal has erred while notionally holding that the monthly income of the deceased was ₹15,000/- because there was no evidence to support that fact.

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

9. This Court is of the opinion that the judgment of the Tribunal needs to be corrected. The modified calculation is made accordingly as under:

(i) Annual Salary ₹14,000 X 12 = ₹1,68,000/-

Deduction ₹1,68,000 X ¼ = ₹42,000/-

(Annual Salary- Deduction) ₹1,68,000 – ₹42,000 = ₹1,26,000/-.

Future Prospect 25% on ₹1,26,000/- = ₹31,500/-

₹1,26,000/- + ₹31,500/- = ₹1,57,500/-.

Multiplier ₹1,57,500 X 14 = ₹22,05,000/-.

(ii) Future Prospect won't bear any interest.

₹31,500 X 14 [MULTIPLIER] = ₹4,41,000/-.

10. The appeal stands disposed of. The impugned judgment is modified accordingly. The Insurance Company is directed to pay an amount of ₹4,41,000/- (Rupees Four Lakh Forty-One Thousand) only to the respondents/claimants. The statutory deposit of ₹25,000/- shall be returned to the Insurance Company.

Send back the LCR.

JUDGE

Comparing Assistant