

**HIGH COURT OF TRIPURA
AGARTALA**

M.A.C. App. No.10 of 2024

National Insurance Company Ltd.,
Agartala Divisional Office, 42, Akhaura
Road, PO-Agartala, P.S.-West Agartala,
Sub-Division- Agartala, District-West Tripura,
PIN-799001, Represented by its
DIVISIONAL MANAGER;
[Insurer of the offending vehicle bearing
Registration no.TR-01-N-1669 (Tripper Truck)].

.....Appellant(s)

Versus

- 1. Sri Rensi Debbarma,**
Son of late Joykrishna Debbarma,
Resident of Joychandra Sardar Para,
Paschim Rajnagar, P.S.-Champahaur,
District-Khowai, Tripura;
- 2. Smt. Biswarani Debbarma,**
Wife of Sri Rensi Debbarma,
Resident of Joychandra Sardar Para,
Paschim Rajnagar, P.S.- Champahaur,
District- Khowai, Tripura;
- 3. Smt. Jayalaxmi Debbarma,**
Wife of late Takhirai Debbarma,
D/o Sri Bidya Ranjan Debbarma,
Resident of Joychandra Sardar Para,
Paschim Rajnagar, P.S.-Champahaur,
District-Khowai, Tripura;
- 4. Sri Pradip Deb,**
Son of late Shanti Bhusan Deb,
Resident of Town Ganki, P.O. + P.S. – Khowai,
District – Khowai, Tripura
(owner of the offending vehicle bearing
Registration no. TR-01-N-1669 (Tripper Truck));
- 5. Sri Goutam Deb,**
Son of Sri Gouranga Deb,
Resident of Dhalabil, P.O. + P.S. – Khowai,
District – Khowai, Tripura
(driver of the offending vehicle bearing
Registration no.TR-01-N-1669 (Tripper Truck)).

.....Respondent(s)

For Appellant(s)	:	Mr. Sankar Lodh, Adv. Mr. Subham Majumder, Adv.
For Respondent(s)	:	Mr. Samarjit Bhattacharjee, Adv.
Date of Hearing & Delivery of Judgment and Order	:	30.07.2025
Whether fit for Reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order(Oral)

This appeal is preferred by the appellant Insurance Company challenging the judgment and award dated 22.09.2022 delivered by Learned Member, Motor Accident Claims Tribunal, Khowai Judicial District, Tripura in connection with Case No.T.S. (MAC) 04 of 2019.

2. Heard Learned Counsel, Mr. S. Lodh appearing on behalf of the appellant-Insurance Company. Also heard Learned Counsel, Mr. S. Bhattacharjee appeared on behalf of the claimant respondents. But none appears on behalf of the respondent No.4 (owner of the offending vehicle) and respondent No.5 (driver of the offending vehicle).

3. At the time of hearing, Learned Counsel, Mr. S. Lodh appearing for the appellant-Insurance Company drawn the attention of the Court that Learned Tribunal below at the time of delivery of judgment relying upon the judgment of

Santhya Rani Debbarma and Others Vs. National

Insurance Company Ltd. awarded compensation under the following heads:-

Head	Amount
Funeral expenses	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection to aged parents	Rs.1,00,000/-
Loss of estate	Rs.1,00,000/-
Litigation costs	Rs.25,000/-
Total	Rs.3,50,000/-

Referring the aforesaid heads, Learned Counsel for the appellant has drawn the attention of the Court that in view of the latest judgment of the Hon'ble Supreme Court of India, there is/was no scope on the part of the Learned Tribunal below to award separate amount for loss of consortium, loss of love and affection and loss of estate. By the said judgment Learned Tribunal below awarded Rs.1,00,000/- for each of the aforesaid heads which was not permissible in the eye of law and as such Learned Counsel for the appellant urged for interference of the judgment delivered by the Learned Tribunal below.

4. In support of his contention, Learned Counsel, Mr. Lodh relied upon the citation of the Hon'ble Supreme Court of India in **National Insurance Company Ltd. Vs. Pranay Shethi and Others** reported in **(2017) 16 SCC 680** wherein in Para No.52, the Hon'ble Apex Court observed as under:-

"52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in *Rajesh* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54]. It has granted Rs. 25,000 towards funeral expenses, Rs. 1,00,000 towards loss of consortium and Rs. 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though *Rajesh* (*supra*) refers to *Santosh Devi* [*Santosh Devi v. National Insurance Co. Ltd.*, (2012) 6 SCC 421], it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same band unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seems to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000, Rs. 40,000 and Rs. 15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads."

5. Learned Counsel, Mr. S. Lodh also relied upon another citation of the Hon'ble Supreme Court of India in ***Smt. Sarla Verma and Ors. Vs. Delhi Transport Corporation and Anr.*** reported in **2009 AIR SCW 4992** and finally Learned Counsel relied upon another citation of the Hon'ble Supreme Court of India in ***Sunita Vs. Vinod***

Singh reported in **2025 SCC OnLine SC 586** wherein in

Para No.11, the Hon'ble Apex Court observed as under:-

"11. The amount arrived at by the High Court of the monthly income being Rs. 5,819/- (Rupees Five Thousand Eight Hundred and Nineteen) as against the claim of Rs. 10,000/- (Rupees Ten Thousand) appears to be on the lower side as the total earning of the deceased from family pension itself ought to have been considered which itself would come to Rs. 5,137/- (Rupees Five Thousand One Hundred and Thirty-Seven) to which the notional wages as a home maker had to be added, which we find is reasonable as has been taken by the High Court at Rs. 2,500/- (Rupees Two Thousand Five Hundred). Thus, the monthly income would come to Rs. 7,637/- (Rupees Seven Thousand Six Hundred and Thirty Seven), which we are inclined to round off at Rs. 7,000/- (Rupees Seven Thousand). Coming to the multiplier factor which is dependent on the age, there is sufficient indication that the deceased was aged about 45 years as per the Post-Mortem Report which is a scientific assessment of the age of the deceased. The purported discrepancy in the age with regard to that of the claimant and the deceased is erroneous for the reason that when the claim was filed, appellant no. 1 was aged about 30 years and a difference of 15 years between the daughter-in-law and the mother-in-law cannot be said to be totally devoid of reality given the contextual and prevalent societal norms in vogue at the time of marriage of the deceased which could have been at least 25 to 30 years prior to her death i.e., in or about the 1970s. Moreover, in the absence of material indicating to the contrary, there is no inhibition to accept the age of the deceased as per the Post-Mortem Report. Thus, we are inclined to grant her the benefit of multiplier of 14 taking her age as 45 years. With regard to the loss of love and affection, Pranay Sethi (supra) grants Rs. 40,000/- (Rupees Forty Thousand) per head with escalation of 10% every three years for loss of consortium which has been interpreted in Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 to include spousal, parental, and filial consortium. Thus, there being five claimants the amount shall be [Rs. 48,000/- x 5] which comes to Rs. 2,40,000/- (Rupees Two Lakhs and Forty Thousand) payable under the head of loss of love and affection."

Referring the same, Learned Counsel submitted that in view of the principle of law laid down by the Hon'ble Apex Court, there is no scope to award separate amount for the aforesaid 3 (three) heads and urged before the Court to consider only one head i.e. loss of consortium for the purpose of 'just' compensation and urged for modification of the judgment and award delivered by Learned Tribunal below by allowing this appeal.

6. Now, let us discuss about the subject matter of appeal. The respondent claimant petitioners filed one claim petition before the Learned Tribunal alleging *inter alia* that on 11.09.2018 while the deceased Takhirai Debbarma was proceeding towards his house at Joychandra Sardar Para by riding his motor cycle bearing No.TR-06-A-8194 that time a tripper truck loaded with bricks bearing No.TR 01-N-1669 dashed against the victim from his backside. As a result of which he fell down on the road. It was further submitted by the respondent- claimant petitioners that soon after the accident the driver fled away from the PO. The local people shifted him to hospital where he was declared as dead. It was also the case of the respondent-claimant petitioners that at the time of accident the deceased was 34 years old and his monthly income was Rs.15,000/- per month and he survived by his parents and wife. His parents and wife were totally dependent upon him. In this regard, one criminal case

vide Champahour PS Case No.29/2018 under Section 279/304 (Part-II) of IPC read with Section 184/187/177 of MV Act was registered.

7. Before the Learned Tribunal the OP Nos.1 and 2 have contested the case by filing their written statement/objection denying the assertions of the respondent claimant petitioners in their claim petition. However, the owner took the plea that the vehicle was duly insured with the appellant National Insurance Company Ltd. It was also submitted that, if any, liability is imposed that should be borne by the Insurance Company.

8. The OP No.3 being the National Insurance Company Ltd. before the Learned Tribunal below denied the assertions of the claimant petitioners and submitted that the claim petition is subjected to strict proof by the claimant petitioners.

9. Upon the pleadings of the parties Learned Tribunal below framed the following issues:-

(I) Whether the accident occurred on 11.09.2018 at about 11.00 a.m. on Khowai-Tulasikhar road near Parchim Rajnagar High School (Chandranath Thakurpara) which resulted in the death of Takhirai Debbarma, S/o Sri Rensi Debbarma of Joysardar Para (Parchim Rajnagar) on account of rash and negligent driving by the driver of the offending vehicle bearing Reg No.TR-01-N-1669.

(II) Whether the OP is the registered owner of the vehicle bearing Reg No.TR-01-N-1669 (Tripper Truck) and said vehicle was having valid and effective vehicular documents including insurance policy.

(III) Whether the deceased was earning Rs.15,000/- per month.

(IV) Whether the claimants are entitled to get any compensation, if so, to what extent and payable by whom.

(V) To what relief/reliefs if any, the claimants are entitled.

In order to prove the issues, both the parties have adduced oral/documentary evidence on record.

10. Finally, on conclusion of the enquiry the Learned Tribunal below by the judgment and award dated 22.09.2022 allowed the claim petition. The operative portion of the Order/Award of the Learned Tribunal below runs as follows:-

Order

Being the insurer of the offending vehicle, the OP No.3, the National Insurance Company Ltd (OP No.03) is to pay the awarded compensation amount of Rs.32,06,000/- (rupees thirty two lakh and six thousand only) along with interest @ 9% per annum within 60 days from the date of passing of this award.

The claimant-petitioner No.1 Smt. Biswarani Debbarma is entitled to get compensation for an amount of Rs.16,03,000/- only and the claimant-petitioner No.3, Smt. Jayalaxmi Debbarma is entitled to get an amount of Rs.16,03,000/- only and the OP No.3, the National Insurance Company Ltd. is to pay the awarded amount of compensation to the claimant petitioners with 9% interest per annum from the date of filing of the claim petition by the claimant-petitioners till the date of payment. Out of the amount of total compensation 50% of the awarded amount be kept in fixed deposit scheme in any Nationalized Bank for a period of 5

(five) years and the said claimant petitioners if desire will be at liberty to draw the monthly interest to be accrued from the fix deposit scheme.

Let a copy of this award be supplied to the petitioners as well as the OP No.3 free of cost.

With my above observation this petition is disposed of.

Challenging that award the appellant Insurance Company has preferred this appeal.

11. I have heard both the sides at length and also perused the judgment and award delivered by the Learned Tribunal below. The Learned Tribunal below at the time of delivery of judgment and award determined the amount of compensation in total Rs.32,06,000/- (Rupees thirty two lakhs six thousand) and fastened the liability of payment of compensation upon the present appellant Insurance Company. From the judgment of the Learned Tribunal further it appears that at the time of determination of compensation towards loss of consortium, towards loss of love and affection to aged parents and towards loss of estate a sum of Rs.1,00,000/- was awarded by the Learned Tribunal under each of the said heads.

12. On perusal of the judgment of the Hon'ble Supreme Court of India in **National Insurance Company Ltd. Vs. Pranay Shethi and Others** reported in **(2017) 16 SCC 680** in Para No.52, the Hon'ble Apex Court observed that for loss of estate, loss of consortium and funeral expenses an amount of Rs.15,000/-, Rs.40,000/- and

Rs.15,000/- was awarded. Under each of the separate heads with a further observation that there should be enhancement on percentage basis in every 3 (three) years and the enhancement should be @10% in a span of 3 (three) years.

13. Furthermore, Hon'ble the Supreme Court of India in the judgment of ***Sunita Vs. Vinod Singh (supra)*** in Para No.11 also confirmed the said fact and taking into consideration the principle laid down in the said judgment, here in the given case, the respondent claimant petitioners Smt. Biswarani Debbarma, W/O- Sri Rensi Debbarma being the mother of the deceased and Smt. Jayalaxmi Debbarma, W/O- Late Takhirai Debbarma (deceased) are entitled to get Rs.48,000/- (Rupees forty eight thousand) each towards the said loss of love and affection which shall include consortium.

14. In this regard, Hon'ble Supreme Court of India in ***United India Insurance Company Limited Vs. Satinder Kaur Alias Satwinder Kaur and Others*** reported in ***(2021) 11 SCC 780*** in Para Nos.34 and 35 further observed as under:-

"34. At this stage, we consider it necessary to provide uniformity with respect to the grant of consortium, and loss of love and affection. Several Tribunals and the High Courts have been awarding compensation for both loss of consortium and loss of love and affection. The Constitution Bench in *Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680]*, has recognised only three conventional heads under which compensation can be awarded viz. loss of estate, loss of consortium and funeral expenses. In *Magma General [Magma General*

Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130], this Court gave a comprehensive interpretation to consortium to include spousal consortium, parental consortium, as well as filial consortium. Loss of love and affection is comprehended in loss of consortium.

35. The Tribunals and the High Courts are directed to award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head."

From the aforesaid observation of the Hon'ble Apex Court it appears that, the Hon'ble Apex Court also directed for granting compensation only under three conventional heads under which compensation can be awarded like loss of estate, loss of consortium and funeral expenses and further observed that loss of love and affection is comprehended in loss of consortium and directed the High Court and the Learned Tribunal to award compensation for loss of consortium which is a legitimate conventional act and further clarified that there is no justification to award compensation towards loss of love and affection as a separate head.

15. So, in view of the aforesaid principle of law laid down by the Hon'ble Apex Court in the given case it appears that Learned Tribunal below committed error in awarding compensation to the respondent claimant petitioners separately under the head loss of consortium Rs.1,00,000/-, loss of love and affection to aged parents Rs.1,00,000/- and loss of estate Rs.1,00,000/- which should be modified to extent that under the head loss of consortium the

respondent claimant petitioners would get Rs.(48,000 x 2)/- = Rs.96,000/- as per judgment of **Pranay Shethi (supra)**, towards funeral expenses Rs.25,000/- and towards loss of estate Rs.15,000/- x 20% i.e. Rs.18,000/- as per **Pranay Shethi (supra)**. Regarding litigation cost as there was no point of argument by the Learned Counsel for the appellant so the same amount may be allowed to be given to the respondent claimant petitioners Rs.25000/-. Hence, the total amount of compensation would come to Rs.28,56,000/- (loss of dependency)+ Rs.25,000/- (funeral expenses) + Rs.96,000/-(loss of consortium) + Rs.18,000/- (loss of estate) + Rs.25,000/- (litigation cost) which comes at Rs.30,20,000/- (Rupees thirty lakhs twenty thousand) only after calculation.

It was also found that the Learned Tribunal below at the time of delivery of judgment awarded interest @9% which appears to be in higher side. As such the rate of interest would be 7.5% only. To avoid any confusion it is ordered that all the Tribunals under the jurisdiction of the High Court at the time of determination of compensation shall follow the guidelines of the Hon'ble Apex Court in the aforementioned cases and shall award compensation for loss of consortium only which is a legitimate conventional head ignoring award of compensation towards loss of love and

affection as a separate head in dealing with claim cases under MV Act.

16. Registrar (Judicial), High Court of Tripura be asked to circulate a copy of judgment/order to all the Learned Tribunals of the State to look into the matter.

17. In the result, the appeal filed by the appellant Insurance Company is allowed with the modification that the respondent claimant petitioners would be entitled to get total amount of compensation of Rs.30,20,000/- (Rupees thirty lakhs twenty thousand) along with 7.5% interest per annum from the date of filing the claim petition that is on and from 29.01.2024 to till the date of realization/payments.

The appellant Insurance Company shall deposit the amount to the Registry of the High Court within a period of 2 months from the date of delivery of judgment if not deposited to the Learned Tribunal below. However, the disbursal of payment would be made in pursuance of the judgment delivered by the Learned Tribunal below on 22.09.2022.

With this observation, this present appeal stands disposed of.

Send down the record to the Learned Tribunal below along with a copy of this judgment/order.

Supply a copy of this judgment/order to Learned Counsel for the appellant Insurance Company for information and compliance and also a copy of this judgment/order be furnished to Learned Counsel for the respondent claimant petitioners for information.

Pending application(s), if any, stands disposed of accordingly.

JUDGE



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