

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.76 of 2025

1. Smt. Sabita Sukla Das, W/O Late Jiban Sukla Das, of Mahadebtilla, Ward No. 2, P.O: Sonatala, PS Khowai, PIN- 799207, District - Khowai, Tripura

2. Shri Sagar Sukla Das, S/O Late Jiban Sukla Das, of Mahadebtilla, Ward No. 2, P.O: Sonatala, P.S- Khowai, PIN -799207, District - Khowai, Tripura

.....The Appellants (Claimants)

VERSES

1. The Divisional Manager, Reliance General Insurance Company Limited, 3rd Floor, Shriram Building 602/N & 602/J, Ker Choumuhani, Agartala TG Road, District- West Tripura Policy No. 990291823750005034 Valid from 13.09.2018 to 12.09.2023. (Insurer of the offending motorbike bearing registration No. TR-06B-4722)

2. Shri Hemendra Nama Biswas, F/O Late Chiranjit Nama Biswas, Of West Sonatala, P.O: Ajagartilla, P.S. Khowai, Pin. 799201, District- Khowai, Tripura(Legal heir of the deceased owner of the offending motorbike bearing registration No. TR-06B-4722)

.....The Respondents

For the Appellant(s) : Mr. Samarjit Bhattacharjee, Advocate.

For the Respondent(s) : Ms. Simita Chakraborty, Advocate.
Ms. Saswati Nag, Advocate.

Date of hearing and delivery of
Judgment & Order : 01.12.2025

Whether fit for reporting : YES/NO.

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

[1] This present appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, by the Appellants-Claimants, against the

impugned Award, dated, 04.06.2025, passed by the learned Member, Motor Accident Claims Tribunal No. 2, Khowai Judicial District, Khowai Tripura, in Case No. T.S (MAC) 18 of 2022 for enhancement of the awarded amount of compensation.

[2] The brief facts of the claimants' case as enumerated before the learned tribunal are that on 18.03.2022 the son of claimant-petitioner No.1(appellant no.1 herein) namely Joy Kumar Das alias Joy Kumar Sukla Das was proceeding towards Khowai from Mahadebtilla as a pillion rider on a motorbike bearing registration No. TR-06B-4722 which was ridden by one Chiranjit Nama Biswas. At about 10.45 pm while they reached at Ganki near Ganki Ananda Marga School, suddenly the rider ChiranjitNama Biswas lost control over the bike due to rash and negligent driving and dashed the bike on a roadside electric post and a pedestrian. As a result of that accident, Joy Kumar Das alias Joy Kumar Sukla Das sustained grievous injury and fell down on the road. Immediately the injured was shifted to Khowai District Hospital with the help of Fire Service vehicle. After giving first aid treatment, the injured Joy Kumar Das alias Joy Kumar Sukla Das was referred to AGMC & GBP Hospital wherein the injured has died on 01.05.2022 during treatment. It was further pleaded that the accident occurred due to rash and negligent riding by the rider of offending vehicle bearing registration No. TR-06B-4722. It was also averred that Joy Kumar Das alias Joy Kumar Sukla Das has died at the age of 23 years and his monthly income was Rs.25,000/-. It was also pleaded that the deceased left behind his mother and a school going younger brother who were totally dependent upon the sole income of Joy Kumar Das alias Joy Kumar Sukla Das. Subsequently, a case has been registered due to the aforesaid incident with the Khowai P/S vide case No. 44/2022 dated 09.06.2022 under Sections 279/338/304A of IPC and also under Sections 184/187 of M.V. Act. Under the above circumstances the claimant-petitioners claimed for

Rs.51,35,000.00 (Rupees fifty one lakhs thirty five thousand) before the Court below.

[3] The learned Tribunal upon hearing the parties and on perusal of the material evidence on record, has decided the case by the impugned judgement and award dated 04.06.2025, passed in Case No. T.S. (MAC) 18 of 2022 in the following manner:

“.....ORDER

20. In the result, it is hereby ordered that the claimant petitioners are entitled to get compensation of ₹11,28,400/ (Rupees eleven lacs twenty eight thousand four hundred) only. The OP No.2 i.e. Reliance General Insurance Company Ltd., the insurer of the offending motorbike bearing Registration No. TR-06B-4722 is directed to make the payment of compensation to the claimant-petitioners within 30 (thirty) days from today along with interest thereon @ 9% per annum from the date of filing of claim petition, i.e., from 26.09.2022 till payment/realization of the same.

21. Out of the said amount the claimant-petitioner No.1 is entitled to get 60% share and the claimant-petitioner No.2 is entitled to get 40% share. The claimant-petitioner No.1 be paid in hand of ₹3,00,000/-(Rupees three lacs) only in her favour out of her share amount and rest amount should be kept in fixed deposit in her respective account in any Nationalized Bank for the period of 5(five) years. The share amount of the claimant-petitioner No.2 be kept in fixed deposit in his respective accounts in any Nationalized Bank for the period of 5 (five) years or till his attaining the majority whichever is earlier. In the case in which investment in long term in the nature of fixed deposit is made on condition that the Bank will not permit any loan or advance on the Fixed Deposit and interest on the amount invested is paid monthly directly to the claimants or their legal heir, as the case may be. Further the claimant-petitioners are also granted liberty to apply for withdrawal in case of an emergency. To facilitate the payment of amount of the claimant-petitioners and the fixed deposit amount on maturity, the claimant-petitioners at the appropriate time shall file photo copy of their Bank Pass Book in their name containing photographs, account numbers, IFSC numbers and the RTGS numbers duly certified by the Banker and a copy of Passport Size photographs before making payment so as to enable this Tribunal to transfer the amounts directly to their Bank Account.

22. The case is disposed of on contest

[4] Being aggrieved by the aforesaid impugned order dated 04.06.2025, passed in Case No. T.S. (MAC) 18 of 2022, the appellants have preferred this appeal seeking the following reliefs:

“Under the circumstances, stated above, it is humbly prayed, that, the Hon'ble High Court would be kind enough to –

- a) Admit the instant appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award, dated, 04.06.2025 passed by the L'd Member, Motor Accident Claims Tribunal No.2, Khowai Judicial District, Khowai Tripura, in Case No. T.S. (MAC) 18 of 2022.
- b) Issue notice upon the Respondents;
- c) Call for the records of T.S. (MAC) 18 of 2022 from the file of the L'd Member, Motor Accident Claims Tribunal No.2, Khowai Judicial District, Khowai,
- d) After hearing, allow the instant Appeal by enhancing the awarded amount of compensation, in favour of the Appellants herein.....”

[5] Mr. Samarjit Bhattacharjee, learned counsel appearing for the appellants submits that learned Tribunal has committed serious error in considering the income of the deceased at Rs.7,000/- per month who was a head of the Mason i.e. skilled labourer. He further submits that learned Tribunal failed to award just and proper compensation under conventional heads like, loss of estate, funeral expenses and loss of consortium since, the amount so quantified should be enhanced by 10% in every three years. He also contends that there are two numbers of dependants of the deceased one is mother and another is younger brother, so, $1/3^{\text{rd}}$ deduction might be prescribed. But, for two numbers of dependants, deduction was made of $1/2^{\text{nd}}$ (50%) of the income of the deceased, instead of $1/3^{\text{rd}}$, which is illegal in the eye of law. He, therefore, urges this Court to enhance the award passed by the learned Court below by order dated 04.06.2025, passed in Case No. T.S. (MAC) 18 of 2022.

[6] On the other hand, Ms. S. Nag, learned counsel appearing for the respondent insurance company opposes the submissions made on behalf of the appellants and submits that the impugned order passed by the learned Tribunal should not be interfered with by this Court.

[7] Heard the submissions made at the Bar and perused the material evidence on record.

[8] In view of the foregoing discussions and on perusal of the materials on record, this Court is of the opinion that as per the Notification dated 4th August, 2023 issued by the Registry of the High Court of Tripura, monthly income of a deceased skilled worker, in the absence of any proof of income, would be fixed at Rs.12,000/- per month. Thus, the monthly income of the deceased as fixed by learned Tribunal below at Rs.7,000/- per month is enhanced at Rs.12,000/- per month.

[9] It is also opined that since the deceased had died on 01.05.2022 and the impugned order has been passed on 04.06.2025 i.e. 3 years have already been elapsed after the accident, ends of justice would be met, if enhancement in the compensation under conventional heads, i.e. loss of estate, funeral expenses and loss of consortium is enhanced by 10% in every three years is applied.

[10] This Court has also opined that there is no infirmity in deduction of $1/2^{\text{nd}}$ i.e. 50% of the income of the deceased since the deceased was an unmarried person and only his mother i.e. appellant no.1 can be said to be dependent upon his income. His younger brother i.e. appellant no.2 as stated by the learned counsel for the appellants, cannot be said to be dependent upon the income of the deceased as per law.

[11] It is also observed that the learned Tribunal by its Order dated 04.06.2025, passed in Case No. T.S. (MAC) 18 of 2022 has fixed rate of interest @ 9% per annum on the awarded amount, which according to this Court is on the higher side. This Court in all similarly situated matters is fixing 7.5% per annum simple interest on the awarded amount to maintain the uniformity considering the present bank rate of interest. Thus, in the present case also, 7.5% per annum simple interest would be fixed instead of 9% per annum interest as fixed by the learned Tribunal.

[12] Hence, the impugned award passed by the learned Tribunal below is re-calculated as under:

RE-CALCULATION

The income of the deceased is Rs.1,44,000/- per year (assuming Rs.12,000/- per month).

Income of the deceased who was self-employed aged about 23 years old towards future prospects following the Hon'ble Supreme Court judgment passed in *National Insurance Company Limited vs. Pranay Sethi & others, AIR 2017 SC 5157*, would be = 40% of Rs.1,44,000/- = Rs.57,600/- .

Total yearly income of deceased = (Rs.1,44,000/- + Rs.57,600/-) = Rs.2,01,600/-.

Following the principle laid down in the judgment of the Hon'ble Apex Court in *Sarla Verma (Smt) & ors vs. Delhi Transport Corporation & another, (2009) 6 SCC 121*, multiplier would be 18 since the deceased was 23rd years old at the time of accident. Therefore, total loss of dependency would be Rs.2,01,600/- X 18 = Rs.36,28,800/-. In the case in hand the deceased was unmarried whose mother was dependent upon him, as such the deduction on account of personal and living expenses of the deceased should be 50%. Therefore, after deduction, total contribution to the family is determined as of (Rs.36,28,800/- ÷ 2) = **Rs.18,14,400/-**.

Loss of estate, funeral expenses and loss of consortium is enhanced by 10% in every three years, and in the present case three years has already been elapsed. So, after 10% enhancement in every three years, the same would be as under:

Loss of estate= (Rs.15,000/- + Rs.15,00/-) = **Rs.16,500/-**.

Funeral expenses= (Rs.15,000/- + Rs.15,00/-) = **Rs.16,500/-**.

Loss of consortium= (Rs.40,000/- + Rs.4,000/-) = **Rs.44,000/-**.

Thus, the total amount to be awarded to the claimant comes to
[Rs.18,14,400/- + Rs.16,500/- + Rs.16,500/- + Rs.44,000/-] =
Rs.18,91,400/-.

[13] Thus, the re-calculated total award to be received by the claimant, i.e. mother of the deceased from the respondent insurance company would be **Rs.18,91,400/- with 7.5% interest per annum** from the date of filing of claim petition before the Court below. It is made clear that insofar as other aspects of the impugned award passed by the learned Court below dated 04.06.2025, in Case No. T.S. (MAC) 18 of 2022, are concerned, the same need no interference and the same shall remain unaltered.

[14] Accordingly, the award passed by the learned Tribunal is modified to the extent as indicated above. The appeal preferred by the appellants is hereby partly allowed and the same is disposed of. The modified awarded amount of **Rs.18,91,400/-** with 7.5% interest per annum shall be deposited by the insurance company within a period of one month from today, if not already deposited. On such deposit, the claimant would be at liberty to withdraw the same unconditionally as per procedure.

[15] As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

DR. T. AMARNATH GOUD, J

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