

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.134 OF 2024**

New India Assurance Company Ltd.

..... **Appellant(s)**

Vs.

Sri Parimal Biswas and ors.

..... **Respondent(s)**

For the Appellant (s) : Mr. G.S. Das, Advocate.
Mr. K. Deb, Advocate.

For the Respondent(s) : Mr. Samarjit Bhattacharjee, Advocate.
Mr. Partha S. Chakraborty, Advocate.

Date of hearing and delivery of
Judgment & Order : 21.07.2025.

Whether fit for reporting : YES.

**HON'BLE THE CHIEF JUSTICE(ACTING)
JUDGMENT AND ORDER(ORAL)**

1. This present appeal has been filed under Section 173 of the M.V. Act, 1988 by the appellant-Insurance Company against the Award dated 02.07.2024 passed by the learned Motor Accident Claims Tribunal No.1, West Tripura, Agartala, in Case No. T.S. (MAC) 21 of 2022, seeking dismissal of the claim petition by setting aside the said Award.

2. The instant appeal has been preferred against the Judgment and Award dated 02.07.2024 passed by the learned MAC Tribunal No.1, West Tripura, Agartala, in T.S. (MAC) 21 of 2022, whereby the learned Tribunal awarded Rs. 16,92,000/- with 9% interest in favour of the

claimant-appellants as dependents, being the father and two younger brothers, shifting the liability upon the appellant, New India Assurance Co. Ltd., as the insurer of the Tata Indica car bearing no. TR-01-AJ-0288. Learned Tribunal after hearing the parties, considered the respondent-claimants as dependents. Aggrieved with the impugned Judgment and Award, this present appeal has been preferred by the appellant-Insurance Company to dismiss the claim petition by setting aside the Award.

3. Heard Mr. G.S. Das, learned counsel, assisted by Mr. K. Deb, learned counsel appearing for the appellant-Insurance Company, as well as Mr. Samarjit Bhattacharjee, learned counsel appearing for the respondents.

4. Mr. Das, learned counsel appearing for the appellant-Insurance Company, submits that claimants No.2 and 3 are not entitled to compensation under the head of '*loss of consortium*' as both are major siblings of the deceased. Learned counsel further submits that the 9% interest per annum granted by the learned Tribunal is on the higher side and the same should be reduced to 7% per annum.

5. On the other hand, Mr. S. Bhattacharjee, learned counsel appearing for the claimant-respondents, argued before this Court to allow the prayer in I.A. No.3 of 2024 for withdrawal/release of an amount of Rs. 11,32,171/- with accrued interest lying before the Registry of this Court, deposited in terms of the order dated 19.03.2025 passed in I.A. No.02/2024

by the Insurance Company, in favour of the respective bank account of the appellants. Learned counsel further stated that the award as passed by the learned Tribunal is just and proper and requires no interference.

To support his argument, learned counsel referred to **paras 13 and 14** of the Hon'ble Supreme Court Judgment reported in **(2021) 11 SCC 780** titled **United India Insurance Company Ltd. vs. Satinder Kaur Alias Satwinder Kaur**. The same is produced here-in-under:

“13. In order to provide uniformity and consistency in awarding compensation, the following steps are required to be followed :—

“Step 1 (Ascertaining the multiplicand)

The income of the deceased per annum should be determined. Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal and living expenses. The balance, which is considered to be the contribution to the dependant family, constitutes the multiplicand.

Step 2 (Ascertaining the multiplier)

Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased.

Step 3 (Actual calculation)

The annual contribution to the family (multiplicand) when multiplied by such multiplier gives the 'loss of dependency' to the family. Thereafter, a conventional amount in the range of Rs. 5,000/- to Rs. 10,000/- may be added as loss of estate. Where the deceased is survived by his widow, another conventional amount in the range of 5,000/- to 10,000/- should be added under the head of loss of consortium. But no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the deceased. The funeral expenses, cost of transportation of the body (if incurred) and cost of any medical treatment of the deceased before death (if incurred) should also added.” (emphasis supplied)

(a) Deduction for personal and living expenses

14. The personal and living expenses of the deceased should be deducted from the income, to arrive at the contribution to the family. In [Sarla Verma](#) (paras 30, 31 and 32), this Court took the view that it was necessary to standardize the deductions to be made under the head personal and living expenses of the deceased. Accordingly, it was held that :

14.1. Where the deceased was married, the deduction towards personal and living expenses should be 1/3rd if the number of dependant family members is two to three;

14.2. 1/4th if the number of dependant family members is four to six; and

14.3. 1/5th if the number of dependant family members exceeds six.

14.4. If the deceased was a bachelor, and the claim was filed by the parents, the deduction would normally be 50% as personal and living expenses of the bachelor. Subject to evidence to the contrary, the father was likely to have his own income, and would not be considered to be a dependant. Hence, the mother alone will be considered to be a dependant. In the absence of any evidence to the contrary, brothers and sisters of the deceased bachelor would not be considered to be dependants, because they would usually either be independent and earning, or married, or dependant on the father. Thus, even if the deceased was survived by parents and siblings, only the mother would be considered to be a dependant. The deduction towards personal expenses of a bachelor would be 50%, and 50% would be the contribution to the family.

14.5. However, in a case where the family of the bachelor was large and dependant on the income of the deceased, as in a case where he had a widowed mother, and a large number of younger non-earning sisters or brothers, his personal and living expenses could be restricted to 1/3rd, and contribution to the family be taken as 2/3rd."

6. Heard and perused the evidence on record.

7. As per the principle laid down in Hon'ble Apex Court Judgment passed in **Magma General Insurance Co. Ltd. vs. Nanu Ram Alias Chuhru Ram**, reported in **AIR ONLINE 2018 SC 1249**, the claimants No.2 and 3, being major siblings of the deceased, are not entitled to the compensation of Rs. 40,000/- each under the head of 'loss of consortium',.

As per **Magma** (*supra*), only the parents, spouse, and children are entitled to compensation under the head '**loss of consortium**'.

8. Accordingly, the award is reduced by Rs. 80,000/-, i.e., Rs. 16,92,000/- minus Rs. 80,000/- = Rs. 16,12,000/-. Further, this Court, following the uniform rate of interest at 7.5%, considers the 9% interest awarded on the compensation amount to be on the higher side and reduces the same to 7.5%. The other parts of the impugned Award shall remain unchanged.

9. Now the point which falls for consideration is, who has to pay the compensation amount to the claimants. It is seen from the records, particularly, Paras:- 6, 11, and 12 of the impugned Judgment and Award, that no evidence was adduced by the appellant-Insurance Company. The relevant portion of those paras are as follows:-

“6.....No evidence has been adduced from the side of O.P. No.2 i.e., the New India Assurance Co. Ltd.

11. No evidence has been adduced by the O.P No.2 i.e. the New India Assurance Company Ltd. controverting the evidence of the claimant petitioners as well as O.P.No.1 and also to substantiate their pleadings.

12. No evidence has been adduced by the O.P. No.2 to controvert the evidence of PW-1.”

10. The insurance officers chose not to appear before the Court, cooperate with the proceeding, or adduce evidence by entering the witness box. This gives an inference to this Court that the insurance officers were not serious about the Court proceedings. It is due to their inaction and laches that Awards are being passed by the Tribunal in favour of the

claimants. On considering the legal aspects and the issues involved, it cannot be said that the Insurance Company should suffer losses and pay compensation. On the contrary, the erred officers continue to draw monthly salaries, incentives, and other hidden benefits.

11. This Court, in some other identical cases, namely, **MAC No.30 of 2025 (National Insurance Company Ltd. vs. Smt. Phul Bhanu Bibi and Others, order dated 20.06.2025)**, **MAC App. No.89 of 2023 (Oriental Insurance Company Ltd. vs. Smt. Aparna Nath and Others, order dated 22.07.2024)**, **MFA(FA) No.2 of 2023 (Tripura State Electricity Corporation Limited and Others vs. Smti. Kamalapati Kaloi and Others)**, and *etc.*, has expressed the view that due to the inaction of erred officers, the Insurance Company should not be burdened with the compensation amount. Instead, such amounts should be recovered from the concerned officers or, alternatively, the Insurance Company should pay the claimants and recover the amount from the errant officers following the '*pay and recover*' procedure.

12. The amount, if not already deposited, shall be deposited within 1(one) month from today with the Registry of the High Court. On receipt of such deposit, the claimants shall be at liberty to withdraw the same unconditionally as per the prescribed procedure.

13. The appeal filed by the appellant-Insurance Company is allowed to the extent indicated above. As a sequel, any interim stay, if granted, stands vacated. Any pending application(s), i.e. I.A No.03 of 2025 also stands closed.

CHIEF JUSTICE (ACTING)

Suhanjit

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HIGH COURT OF TRIPURA



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