

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App. No.71 of 2024

Divisional Manager,
The New India Assurance Co. Ltd.,
Mantribari Road, P.S. West Agartala,
P.O. Agartala, District- West Tripura, Pin- 799001.
Represented by its Divisional Manager,
(Insurer of the offending vehicle bearing No.TR-04-B-1654, Bolero)
.....Appellant-Petitioner(s).

V e r s u s

1. Sri Mani Ch. Jamatia,
S/o. Late Suku Mani Jamatia.

2. Smti Sandhya Mali Jamatia,
W/o. Sri Mani Ch. Jamatia.

3. Smti Malati Kanya Jamatia,
D/o. Sri Mani Ch. Jamatia,
Sister of Late Karna Kumar Jamatia.

All are resident of Vill- Hadrai,
Teliamura, P.S. Teliamura, District- Khowai, Pin- 700205.
.....Claimant Respondents.

4. Sri Ajit Biswas,
S/o. Sri Gangadhar Biswas,
Resident of Purba Dalu Chera,
Bhatkhowri, P.S. Salema, Dhalai, Tripura, Pin- 799278.
(Owner of the vehicle bearing No.TR-04-B-1654, Bolero).
.....Owner Respondent.

5. Divisional Manager,
The National Insurance Co. Ltd.,
A.K. Road, Agartala, P.O. Agartala,
P.S. West Agartala, District- West Tripura, Pin- 799001.
(Insurer of vehicle bearing No.TR-06-C-5047, Motor Bike).
.....Respondent(s).

For Petitioner (s) : Mr. Gitangshu Sekhar Das, Advocate.
Mr. Kushal Deb, Advocate.

For Respondent(s) : Mr. Deba Ranjan Chowdhury, Sr. Advocate.
Mr. Asim Kumar Deb, Advocate.
Mr. Sujoy Sarkar, Advocate.

Date of hearing and date of
delivery of Judgment & Order: **13th March, 2026**

Whether fit for reporting : **NO**

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER (Oral)

Heard learned counsel of both sides.

[2] The claim petition was filed by the claimant-respondent Nos.1 to 3, who are respectively the parents and sister of the deceased, Karna Kr. Jamatia, seeking compensation for his death caused due to a road traffic accident that occurred on 27.10.2020 at around 10.30 a.m. at Tuithampoi to Teliamura road under Teliamura P.S., due to rash and negligent driving of driver of the offending vehicle bearing registration No.TR-04-B-1654 (Bolero). It is stated in the claim petition that on the said date of accident, the deceased was returning to his home by riding his motorcycle and, after keeping his motorcycle in stranded position on the left side of road, was waiting for his friend at the place of occurrence. At that time, the offending Bolero vehicle, coming in a very rash and negligent manner, dashed his vehicle for which he sustained severe injuries. He was first taken to Teliamura Hospital and on reference thereafter to GBP Hospital, Agartala, where he succumbed to his injuries.

[3] The present appellant and the other respondents contested the claim petition by filing their respective pleadings and by adducing evidences.

[4] The appellant does not disown its responsibility to make payment as an insurer of the offending vehicle. It is also not disputed that the deceased died due to rash and negligent driving of the said offending vehicle, and at the time of the accident his age was 24 years.

[5] The claimants claimed the monthly income of the deceased to be Rs.50,000/-. According to them, he was doing a private job as a Mechanic and also had the expertise to weaving Pachra (a local attire of schedule tribe community) and he would also maintain both piggery and poultry farm and, in this way, he would earn an amount of Rs.50,000/- per month.

[6] Learned Tribunal, in the award dated 26.02.2024, in connected TS (MAC) No.2 of 2021 as impugned herein, assessed his monthly income to be Rs.22,500/- per month on the following counts:

Rs.12,000/- per month as a Mechanic;

Rs.4,500/- per month by weaving and selling Pachra and;

Rs.6,000/- per month from poultry farm;

Learned Tribunal, thereafter, deducted 1/3rd on the count of his personal expenses and ultimately awarded compensation of total Rs.46,09,000/-. No compensation was awarded to the father of the deceased, i.e., respondent No.1, Mani Ch. Jamatia.

[7] Being aggrieved by the said award, the present appeal is preferred by the appellant mainly on three grounds: firstly, that the learned Tribunal has assessed the monthly income of the deceased in a highly inflated manner, despite the fact that no satisfactory evidence was led to show that he was preparing pachra and selling it in the market and was also maintaining both piggery and poultry farm, secondly, that since the deceased being bachelor, 50% from his monthly income ought to have been deducted towards personal expenses and thirdly, that the learned Tribunal had granted interest at the rate of 9%, which is also a higher rate of interest than the prevailing rate of interest as granted by the nationalized Banks.

[8] Mr. Gitangshu Sekhar Das, learned counsel argues that it was not feasible for a person to pursue and maintain three or four professions at a time, and no satisfactory evidence was also led by the claimants to establish that the deceased was weaving pachra and was also maintaining a poultry farm. Learned counsel further submits that no document regarding any of these avocations was proved in evidence and no witness was also examined in this regard. He further submits that if the deceased was maintaining either piggery or any poultry farms, there would certainly be some documents, such as clearance certificate from Pollution Control Board in this regard. Learned counsel therefore submits that the impugned award may be interfered with by suitably reducing the quantum of compensation.

[9] Mr. Deba Ranjan Chowdhury, learned senior counsel appearing for the claimant-respondents, submits that it is never the case of the claimants that the deceased was maintaining three professions simultaneously, rather, his profession was mainly the job of a Mechanic, and during his leisure time he would weave Pachra and would also maintain a Poultry farm. Therefore, learned Tribunal was completely justified in

assessing the monthly income of the deceased. Learned senior counsel also submits that no consortium was awarded to the father and sister of the deceased by the learned Tribunal. According to him, the rate of interest as was awarded by the learned Tribunal was also proper, as the accident and the death of the deceased occurred in the year 2020.

[10] Mr. Asim Kumar Deb, learned counsel appearing for respondent No.5 submits that they are formal party in this appeal having saddled with no responsibility of making any payment.

[11] Court has considered the submissions of both sides and also revisited the entire evidences as placed by the parties in the record. From the side of the claimants, no satisfactory evidence has been produced to justify their claim that the deceased was a mechanic and was also weaving pachra and was simultaneously maintaining a poultry farm. Only the father of the deceased, in his examination-in-chief, and another witness, namely Kumar Sadhan Jamatia, PW-2, in their evidences made a general statement that the deceased was a Motor Mechanic and was also an artisan who used to weave pachra and simultaneously would maintain the piggery or poultry farm. In the claim petition, the occupation of the deceased was mentioned by the claimants as private service (mechanic and artisan), and in another place, it was also mentioned that he was maintaining both poultry and piggery farm. However, except these oral evidences, no other convincing material was placed in the evidence to show that the deceased used to weave and sell pachra in the market or that he would maintain such poultry farm or piggery in his house. No book showing any account of such extra earning or any document regarding existence of any such farm or pachra-shop is also placed in the evidence. No customer of any of these items was also examined. Therefore, in absence of any satisfactory evidence led by the claimants in this regard, it appears that the learned Tribunal has committed an error by accepting the version of the claimants that the deceased would maintain Poultry and Piggery farms, and also would weave Pachra. Learned Tribunal has further held, without any evidence, that the cost of each Pachra would be approximately Rs.420/- per piece, therefore, he would earn Rs.4,500/- per month by selling them. It is not further explained by the learned Tribunal in the award as to how it could arrive at such a conclusion of earning Rs.4,500/- per month on that count, especially

when there is no evidence as to how many of such pachra would be woven by him in a month, how many would be sold in the market, or what was the rate of profit. Similarly, without any basis, the learned Tribunal has further assessed Rs.6,000/- per month as monthly income of the deceased from the poultry farm. In view of the above, it appears to this Court that the entire compensation as awarded by the learned Tribunal is required to be reassessed.

[12] Learned Tribunal has assessed the monthly income of the deceased to be Rs.12,000/- for working as a Mechanic, which the appellant does not dispute. Such assessment appears to be reasonable. Therefore, the monthly income of the deceased is treated to be Rs.12,000/- as a Mechanic as a whole. As already stated above, the age of the deceased and the application of multiplier 18 are not disputed by the parties. Learned Tribunal has also rightly added further 40% on the monthly income of the deceased as future enhance of income. Therefore, the compensation is being assessed in the following manner:

Loss of Income- Rs.12,000/- plus 40% = Rs.16,800/-. 50% there from is deducted on the count of personal expenses in view of the decision of the Hon'ble Supreme Court in case of **Sarla Verma (Smt) & Ors. vs. Delhi Transport Corporation & Anr.,(2009) 6 SCC 121**. Therefore, the compensation for loss of future income comes to Rs.8,400 x 12 x 18 =Rs.18,14,400/-. 50% thereof is deducted on account of personal expenses. Loss of income is, therefore, assessed at Rs.8,400 x 12 x 18 =**Rs.18,14,400/-**.

[13] In view of the decisions of the Hon'ble Supreme Court in case of **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors.,(2018) 18 SCC 130**, and **National Insurance Company Limited vs. Pranay Sethi & Ors.,(2017) 16 SCC 680**, an amount of **Rs.48,400/-** is awarded to each of the claimants as loss of consortium. Furthermore, on account of loss of estate and cost of funeral expenses, **Rs.18,150/-** plus **Rs.18,150/-** are also awarded to the claimants.

Thus, the total compensation is assessed at Rs.19,95,900/- rounded off to **Rs.19,96,000/-**.

Considering the fact that the accident occurred in the year 2020, the rate of interest of 9% as awarded by the learned Tribunal is reduced to 7%.

[14] In view of the above, it is ordered that the appellant shall pay Rs.19,96,000/- (Rupees nineteen lakh ninety-six thousand only) as compensation to the claimants, along with interest @7% per annum w.e.f. the date of filing of the claim petition till payment is made. Out of said total compensation, claimant Mani Ch. Jamatia will get only Rs.48,400/- (Rupees forty-eight thousand four hundred) along with proportionate interest. The rest amount will be disbursed to other two claimants, namely Sandhya Mali Jamatia and Malati Kanya Jamatia. Out of said rest amount of compensation, 75% will go to the mother Sandhya Mali Jamatia and rest 25% will go to the sister, namely Malati Kanya Jamatia.

As ordered earlier by the learned Tribunal, 50% of the amount from the shares of Sandhya Mali Jamatia and Malati Kanya Jamatia will be kept in a fixed deposit for 5(five) years. However, they will be entitled to receive the periodical interest accrued thereupon. The entire amount payable to Mani Ch. Jamatia will be released in his favour.

With the above observations and directions, the appeal stands disposed of. Pending application(s), if any, shall also stand disposed of.

The appellant will deposit the required amount of compensation before the learned Tribunal at the earliest after making necessary adjustment of the deposits, if any, already made.

Re-consign the Trial Court record with copy of this judgment immediately.

JUDGE