

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

MA No. 617/2010

Date of Pronouncement: 30.01.2026

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New India Assurance Co. Ltd.

...Applicant(s)/Petitioner(s)

Through :- Mr. Jugal K. Gupta, Advocate

v/s

Basker Nath and others

...Respondent(s)

Through:- Mr. K.L. Pandita, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER(ORAL)

1. Impugned in this appeal filed by New India Assurance Co. Ltd. is an award dated 31.03.2010 passed by the Motor Accident Claims, Tribunal Jammu [**“the Tribunal”**]in file No. 134/Claim titled **“*Basker Nath and Ors. Vs. New India Assurance Company Ltd. and Ors.*”**, whereby the Tribunal has, while allowing claim petition, awarded sum of Rs. 8,02,438/- alongwith interest @ 7.5% per annum. Impugned award is assailed by the appellant-Insurance Company primarily on the following grounds:

- (i) That the driver of the offending vehicle was not possessing a valid driving license and, therefore, the appellant-Insurance Company was absolved of its liability to indemnify the insurer.
- (ii) That the Tribunal has erroneously taken the monthly income of the deceased as Rs. 7,160/-, whereas, as per the statement

made by PW- Usha, the actual income of the deceased was Rs. 6,500/- per month. That the Tribunal has failed to take into account the salary which the dependents got on the death of the deceased in harness, as well as the other pensionary benefits.

2. Having heard learned counsel for the parties and perused the material on record, I am of the considered opinion that the award passed by the Tribunal is perfectly legal and in consonance with the evidence on record.
3. The death of the deceased-wife of respondent No. 1 in a Motor vehicle Accident is not in dispute. The claimants have fully discharged the onus of issue No. 1 and proved by leading sufficient evidence that the accident in which the wife of respondent No. 1 lost her life on 04.11.2003, occurred due to rash and negligent driving of the offending vehicle.
4. With regard to the income, not only the salary certificate of the deceased-Ms. Girja Bhat, who was serving as teacher in the Education Department, was placed on record, but one Ms. Usha, an employee of school, also appeared before the Tribunal and proved the salary certificate which was on record.
5. The Tribunal has, therefore, rightly concluded that the claimants had successfully proved that the income of the deceased at the time of her death was Rs. 7,160/- per month.
6. Regarding the plea of the appellant that the salary and the pensionary benefits which the respondent No. 1 was entitled to on the untimely demise of Ms. Girja Bhat in the Motor Vehicle Accident have not been

taken into consideration by the Tribunal, suffice it to say that the law in this regard is now well settled. The benefits to which the appellant is referring to are the benefits, which would have otherwise been received by her legal heirs, even if she would have died natural death, otherwise in a Motor Vehicle Accident. The legal position is reiterated in the recent judgment titled “*Parmod Kumar Tiwari Vs. PremLal Gautam and others*” **Manu/SC/0866/2025** decided on 08.04.2025.

7. So far as the plea of the appellant that the driver of the offending vehicle was not possessing a valid driving license at the time of accident is concerned, it would be sufficient to say that the onus to prove the aforesaid issue was on the Insurance Company, but the same has not been discharged.
8. In view of the aforesaid, I find no merit in the grounds of challenge urged on behalf of the appellant. The appeal is found devoid of any merit and the same is, accordingly, *dismissed*.
9. The amount deposited before the Registry shall be released in favour of the rightful claimants after due verification and identification, in terms of the impugned award.

(Sanjeev Kumar)
Judge

JAMMU
30.01.2026
Rahul Sharma

Whether the order is speaking? : Yes/No

Whether the order is reportable? : Yes/No