GAHC010006412015

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MACApp./38/2020

ALEMA KHATUN and 4 ORS
W/O LATE JAKIR HUSSAIN

VERSUS

MD NURUL ISLAM and 2 ORS
S/O KHURSHED ALI, VILL. ALENGAMARI, P.O. KALPANI BAZAR, P.S. GOBARDHANA, DIST. BAKSA, ASSAM.

2:MD. MAINUDDIN

3:THE REGIONAL MANAGER
BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD

Advocate for the Petitioner : MR. A BHATTACHARJEE

Advocate for the Respondent : MR. A BHATTACHARJEE adv for R-3

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

25.11.2020:

Heard Mr. S. Ahmed, learned counsel for the appellants and Mr. A. Bhattacharjee, learned counsel for the respondent No.3-Bajaj Allianz General Insurance Co. Ltd.

Dissatisfied with the judgment and award passed by the Motor Accident Claims Tribunal No.1, Kamrup, Guwahati in MAC Case No.1159/2011, this appeal has been filed basically for enhancement of the award.

Learned counsel for the appellants submits that while computing the loss of dependency, learned Tribunal deducted 1/3rd of the income of the deceased which ought to have been 1/4th in view of the number of dependents left by the deceased.

Learned counsel for the Insurance Company also fairly conceded that the deduction ought to have been 1/4th and contends that this appeal can be disposed of with the modification in the award by way of re-computation taking into account one forth standard deduction. However, learned counsel for the Insurance Company submits that learned Tribunal has awarded Rs.1,00,000/- on account of loss of due care and guidance which the claimants are not entitled to and submits that while calculating the award by deducting 1/4th from the income, the amount of Rs.1,00,000/- awarded by the Tribunal on account of loss of due care and guidance should not be inclined, to which the learned counsel for the appellants has no objection.

In view of the above, the quantum of the award is calculated as under:

Total monthly income : Rs. 4,500.00

Total annual income : Rs. 54,000.00 (Rs.4,500.00 X 12)

Add 50%(future prospect) : Rs. 54,000.00 + 50% (Rs.27,000.00)

Total annual income : Rs. 81,000.00

Less 1/4th : Rs. 60,750.00 (loss of dependency)

Multiplier	: 16
	: Rs. 9,72,000.00
Funeral expenses	: Rs. 25,000.00
Loss of consortium	: Rs. 1,00,000.00
Loss of expectation of life	: Rs. 10,000.00
Total	: Rs.11,07,000.00

The appeal is accordingly allowed with the modification as indicated above. The Insurance Company (respondent No.3) shall deposit the awarded amount with interest @ 6% per annum with the Tribunal within 6 (six) weeks. Direction given by the Tribunal with regard to fixed deposit shall stand.

The appeal accordingly stands disposed of.

JUDGE

Comparing Assistant