

ASGL050001542018



**BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS
TRIBUNAL, GOLAGHAT.**

**Present: - Mr. R.A. Tapadar, A.J.S.
Member, M.A.C.T.
Golaghat.**

M.A.C. case No. 154/2018.

1. Smti. Priyanka Singha,
Wife of Late Priyo Kumar Singh,
 2. Miss Nitya Singha (Minor),
Daughter of Late Priyo Kumar Singh,
 3. Smti. Purnima Devi,
Mother of Late Priyo Kumar Singh,
- All are residents of Forest Block,
Udaypur,
P.O. & P.S. - Merapani,

Mouza - Ghiladhari,

District – Golaghat, Assam.

(The claimant No.2, being the minor is represented by her mother, the claimant No.1).

..... Claimants.

-Vs-

1. The Branch Manager,
New India Assurance Co. Ltd.,
Golaghat Micro Office,
GDS Building, Room No.30,
HKG Path, opposite Post Office,
Golaghat, Assam.
[Insurer of vehicle No. AS-21-2262
(Truck)].

2. Md. Imtaz Ahmed,
Son of Late Saifuddin Ahmed,
Resident of Moinapara Gaon,
P.O. - Moinapara,
P.S. – Golaghat,

District – Golaghat, Assam.

[Driver of vehicle No. AS-21-2262
(Truck)].

3. Md. Saleh Ahmed,

Son of Late Tamijuddin Ahmed,
Resident of Santipur, Ward No.4,
Golaghat Town,

P.O. & P.S. - Golaghat,

District – Golaghat, Assam.

[Owner of vehicle No. AS-21-2262
(Truck)].

..... Opposite parties.

APPEARANCE:-

For the Claimant : Smti. D. Hazarika,
Learned Advocate.

For the O.P. No.1 : Shri M.C. Borthakur,
Learned Advocate.

Claim petition filed on : 09.08.2018.

Evidence recorded on : 10.02.2020, 15.02.2021,

15.03.2022, 24.01.2024,

30.08.2024.

Date of Argument : 30.06.2025.

Date of Judgment : 14.08.2025.

J U D G M E N T

1. The claimants filed the instant claim petition under section 166 and 140 of the Motor Vehicles Act, praying for allowing compensation on account of death of their husband/father/son Late Priyo Kumar Singh, in a motor vehicle accident that took place on 18.02.2018, at about 1:00 p.m., at Adarsha Gaon, Meradolong Road, under Merapani Police Station, District – Golaghat, Assam.

2. The claimants, *inter alia*, stated that on 18.02.2018, at about 1:00 p.m., while Priyo Kumar Singh (since deceased) was coming from Dergaon to Merapani, via Golaghat Town by riding a Motorcycle bearing registration No. AS-05-J-4867, then on the Golaghat-Merapani road, one offending vehicle bearing registration

No. AS-21-2262 (Tata LP), which was coming from the opposite direction in a very rash and negligent manner and at an unreasonably high speed, dashed against Priyo Kumar Singh with great force, on his wrong side. As a result of the accident, Priyo Kumar Singh fell and sustained grievous head injuries, causing shock, coma, haemorrhage and multiple long bone fractures.

The claimants stated that immediately after the accident, injured Priyo Kumar Singh was taken to K.K. Civil Hospital, Golaghat, where he succumbed to the injuries. The claimant stated that the accident took place due to rash and negligent driving on the part of the driver, i.e. O.P. No.2 of the said Truck. The claimants further stated that at the time of death, the deceased was an employee of Lahoty Brothers Private Ltd., Lahoty Bhawan, Jorhat, Assam. He was serving in the company as a driver of an Oil Tanker. He was drawing his average monthly salary of Rs.18,100/-. From the said income, he had been maintaining his wife, newborn daughter and his old sick mother in respect of food, clothes, medicines, etc. He was the only bread earner of his family. He had left no agricultural land. Now the claimants have been suffering severe financial stringencies. By narrating the facts above, the claimants prayed for the grant of compensation of Rs.33,50,000/-.

3. After registration of the claim petition, notices were issued to the opposite parties. Despite receipt of notices, the O.P. No. 2, the driver, and O.P. No. 3, the owner of the vehicle bearing registration No. AS-21-2262 (Tata LP) chose not to contest the case of the claimant. Therefore, it was ordered to proceed with the case ex parte against them.

4. The O.P. No.1, the New India Assurance Co. Ltd., contested the case by submitting its written statement and *inter alia* stated that there is no cause of action to file the claim petition against this answering opposite party. The claim petition is not maintainable both in law and on the facts. The claim petition is bad for the non-joinder of a necessary party. The insurer, driver of the Motorcycle bearing registration No. AS-05-J-4867 should have been made a party for proper adjudication of the case. The answering opposite party is protected u/s 147 and 149 of the M.V. Act, 1988 and the liability for payment of compensation, if any, is limited by statute and the condition of the insurance policy. The answering opposite party is not liable to pay any compensation, unless and until it is proved that the driver of the alleged offending vehicle bearing Registration No. AS-21-2262 (Truck) was having a valid and effective driving licence to drive such a vehicle at the

relevant time of the alleged accident. Moreover, it must also be proved that the alleged offending vehicle was roadworthy to ply, having all necessary documents. The answering opposite party is not liable to pay any compensation, unless and until it is proved that the Motorcycle bearing registration No. AS-05-J-4867 was duly insured, and the driver had a valid and effective driving licence to drive such a Motorcycle at the time of the alleged accident. The O.P. No.1 denied the other averments made in the claim petition, save and except those which are specifically admitted. The O.P. No.1 also stated that the matter of the alleged accident was not reported to this answering opposite party by the insured. Hence, the answering opposite party is not aware of the alleged accident and the registration of the police case. The opposing party stated that the amount of compensation claimed by the claimants lacks any legal, material, and reasonable basis and is highly excessive. The claimants are not entitled to such compensation as claimed. There was no rash and negligent driving on the part of the driver of the vehicle bearing registration No. AS-21-2262 (Truck), at the time of alleged accident. Instead, the alleged accident took place due to the fault on the part of the deceased himself. Therefore, the O.P. No.1 prayed to dismiss the claim petition.

5. Upon perusal of the pleadings of the parties, the following issues were framed.

ISSUES :

(I) Whether there was rash and negligent driving on the part of the driver of the vehicle bearing registration No. AS-21-2262 (Truck) that caused the accident on 18.02.2018, at about 1:20 p.m., at Adarsha Gaon, NEC Road, under Merapani Police Station, in the District of Golaghat, Assam?

(II) Whether Late Priyo Kumar Singh died as a result of the said accident?

(III) Whether the claimants are entitled to any compensation? If so, what would be the proper quantum and payable by whom?

(IV) Any other reliefs?

6. I have heard both sides.

DISCUSSION, DECISION AND REASONS**THEREOF:**

7. I have gone through the claim petition, written statement of the opposite party, the evidence on record and the documents relied on by the claimant. I have also considered the submissions of both parties.

ISSUE NOS.(I) & (II):

8. Both the Issue Nos. (I) and (II) being interrelated are discussed together for the sake of convenience.

9. Claimant Smti. Priyanka Singha (P.W.1), in her evidence, reiterated the material facts, which she has stated in the claim petition. The claimant (P.W.1), in her evidence, stated that on 18.02.2018, at about 1:00 p.m., her husband Priyo Kumar Singh was coming home from Dergaon to Merapani, via Golaghat Town, by riding a Motorcycle bearing registration No. AS-05-J-4867. Then on the Golaghat-Merapani road, one offending vehicle bearing registration No. AS-21-2262 (Tata LP), which was coming from the opposite direction in a very rash and negligent manner and at an unreasonably high speed, dashed against her husband, Priyo Kumar Singh, with great force, on his wrong side. As a result of the accident, her husband fell

and sustained grievous injuries on his head, face and both hands. The claimants also stated that immediately after the accident, her injured husband was taken to K.K. Civil Hospital Golaghat, where he succumbed to the injuries.

10. The evidence of claimant, P.W.1 is supported by the evidence of P.W.2 Smti. Purnima Devi, the mother of the deceased. Although P.W.1 and P.W.2 are not eyewitnesses to the accident, the occurrence of the road traffic accident was not disputed by the opposite party.

11. I have perused the FIR, Ext.-2, which shows that one Shri Kanto Singh lodged an FIR on 18.02.2018 before the O/C of Merapani Police Station, alleging that on the said day, at about 1:00 p.m., when his son Priyo Kumar Singh was coming home on the Motorcycle bearing registration No. AS-05-J-4867 from the Golaghat side, then at Adarsha Gaon, on Golaghat-Merapani Road, one offending vehicle bearing registration No. AS-21-2262 (Tata LP), which was coming from the opposite direction, knocked down his son with great force. As a result of the accident, his son sustained grievous injuries on his person. Immediately after the accident, his son was taken to K.K. Civil Hospital, Golaghat, where he succumbed to his injuries. I have also perused the death certificate of the deceased, Ext.-8.

12. From the FIR, Ext.-2 and the death certificate of the deceased, Ext.-8, it reveals that the husband of the claimant no.1 died on 18.02.2018. P.W.1 has also exhibited the photocopy of the post-mortem report of the deceased as Ext-4, which the Senior Medical & Health Officer, S.K.K. Civil Hospital, Golaghat, attested. From Ext-4, it is seen that the deceased died due to shock, coma and haemorrhage as a result of head injury and multiple long bone fractures sustained by the deceased. There is nothing on the record to disbelieve the post-mortem report of the deceased, which the Senior Medical & Health Officer, S.K.K. Civil Hospital, Golaghat attested.

13. From the discussions above, it is proved that Priyo Kumar Singh, i.e. the husband of the claimant no.1, died as a result of the motor vehicle accident that occurred on 18.02.2018, at about 1:00 p.m., at Adarsha Gaon, under Merapani Police Station, District – Golaghat, Assam and the said accident occurred due to rash and negligent driving on the part of the driver of the aforesaid LP Truck bearing registration No. AS-21-2262. Hence, the Issue Nos. (I) and (II) are decided in favour of the claimants in the affirmative.

ISSUE NOS. (III) & (IV):

14. Both the Issue Nos. (III) and (IV) being interrelated are discussed together for the sake of convenience.

15. The Claimant (P.W.1) in her claim petition, as well as in her evidence, stated that at the time of death, her deceased husband was an employee of Lahoty Brothers Private Ltd., Lahoty Bhawan, Jorhat, Assam, and he was working as a driver of the Oil Tanker of the company. He was drawing his average monthly salary of Rs.18,100/-.

16. To substantiate her plea, the claimant, P.W.1 has examined Shri Vijay Singh Sarda, the Director of Lahoty Brothers Pvt. Ltd. as P.W.3. The evidence of P.W.3 reveals that Late Prio Kumar Singh was working in Lahoty Brothers Pvt. Ltd., as Oil Tanker driver since 17.02.2015 and he was drawing his salary at Rs.18,100/- per month. In this connection, he has issued a certificate to the claimant on 26.05.2018. Ext.-5 is the said certificate, and Ext.-5(i) is his signature. The claimant, P.W.1, has also exhibited the Admit Card of the Board of Education, Assam, of her deceased husband as Ext.-7. From Ext.-7, it is evident that the date of birth of the deceased was 2nd April, 1993. The deceased died on 18.02.2018 due to a road traffic accident. Hence, at

the time of death, the age of the deceased was 25 years. I have perused Ext.-5, the certificate, issued by the Lahoty Brothers Pvt. Ltd.

17. Now, considering the age of the deceased as 25 years at the time of death and his monthly income was Rs.18,100/- and at the time of death, he left behind him his wife, one daughter and his mother, the compensation to which the claimants are entitled is required to be calculated.

18. Considering the above discussions and findings and having considered the facts and circumstances of the present case at hand, the Claimants are entitled to get the compensation as follows:-

Heads of claim.	Tribunal Amount	Case Law relied upon.
Established income = Rs.18,100.00 p.m. Enhancement towards future prospect – 40% (Rs.18,100.00 + Rs.7,240.00) = Rs.25,340.00 Age- 25 years. Multiplier 18 Deduction 1/3 rd (Rs.25,340.00 – Rs.8,447.00) =		National Insurance Co. Ltd. Vs. Pranay Sethi, reported in (2017) 16 SCC 680 AND Sarla Verma & Ors vs. Delhi Transport Corpo- ration & another (2009) 6 SCC 121.

Rs.16,893.00		
Loss of dependency (Rs.16,893.00 X 12 X 18)	Rs.36,48,888.00	
Spousal/parental/ Filial consortium (Rs.48,000.00 X 3)	Rs.1,44,000.00	National Insurance Co. Ltd. Vs. Pranay Sethi, reported in (2017) 16 SCC 680
Loss of estate	Rs.18,000.00	National Insurance Co. Ltd. Vs. Pranay Sethi, reported in (2017) 16 SCC 680
Funeral expenditure	Rs.18,000.00	National Insurance Co. Ltd. Vs. Pranay Sethi, reported in (2017) 16 SCC 680
Total	Rs.38,28,888.00	

19. Thus, the claimants would be entitled as compensation for the death of their husband/father/son Late Priyo Kumar Singh in total, an amount of **Rs.38,28,888.00 (Rupees Thirty-eight Lakhs Twenty-eight Thousand Eight Hundred Eighty-eight)** only, along with interest at the rate of 9% per annum from the date of filing of the claim petition till its realisation.

20. It has already been discussed that the accident occurred due to rash and negligent Act on the part of the driver of the vehicle bearing registration No. AS-21-2262 (Truck). From Ext.-3, the Accident Information Report (Form

No. 54), it is evident that at the relevant point in time, the driver of the said LP Truck possessed a valid driving licence, vide D/L No. AS0520020008252, which was valid up to 22.07.2022, issued by the DTO, Golaghat. As such, the owner of the said LP Truck has not violated the condition of the insurance policy. It also reveals from Ext.-3 that at the time of the accident, the aforementioned offending LP Truck was insured with O.P. No.1, New India Assurance Co. Ltd., vide policy No. 53011131160200001049, and it was valid up to 30.03.2018.

21. Given the above discussions from evidence on record, it is held that the O.P. No.1, New India Assurance Co. Ltd., the Insurer of the offending vehicle bearing registration No. AS-21-2262 (LP Truck) is liable to indemnify the owner of the vehicle in respect of the compensation amount awarded. The Issue Nos. (III) and (IV) are also decided accordingly.

AWARD AND ORDER :

22. In the result, the claim petition is allowed on contest. The O.P. No.1, New India Assurance Co. Ltd. is directed to make payment of **Rs. 38,28,888.00 (Rupees Thirty-eight Lakhs Twenty-eight Thousand Eight Hundred Eighty-eight)** only, along with interest at the

rate of 9% per annum from the date of filing the claim petition, i.e. from 09.08.2018 till its realisation.

23. It is further directed that out of the aforesaid total awarded amount, Rs 5,00,000.00 (Rupees Five Lakhs) only, shall be paid to claimant no.3, Smti. Purnima Devi (mother of the deceased) as compensation. Another amount of Rs.15,00,000.00 (Rupees Fifteen Lakhs) only, shall be kept in Fixed Deposit Scheme in the name of claimant no.2, Miss Nitya Singha (minor daughter of the deceased) in a Nationalised Bank, near the place of her permanent residence till she attains her majority. The remaining amount of the award, along with interest thereon, shall be paid to claimant no.1, Smti. Priyanka Singha as compensation.

24. The O.P. No.1, New India Assurance Co. Ltd. is directed to deposit the awarded amount of compensation along with interest thereon or transfer the same by **RTGS/NEFT/IMPS** directly to the bank account of the Claimants within 1 (one) month from the date of this order, and in default 10% additional interest on the awarded amount shall be paid by the Insurance Company (O.P. No.1) for the delayed period. The Claimants shall furnish their bank accounts to O.P. No. 1 within one week, along with copies of their PAN cards, Aadhaar cards, and cancelled

cheques, and provide intimation to this Tribunal. O.P. No. 1 and the bank shall inform the Tribunal of their compliance with the award and order to this Tribunal without delay.

Given under my hand and seal of this Tribunal on this the 14th day of August, 2025, at Golaghat.

Member,
M.A.C.T. Golaghat.

Dictated & corrected
by me.

Member,
M.A.C.T. Golaghat.

APPENDIX

Witnesses examined by the claimant:

1. C.W.1 – Smti. Priyanka Singha.
2. C.W.2 – Smti. Purnima Devi.
3. C.W.3 - Shri Vijay Singh Sarda.

Witnesses examined by the opposite party:

Nil.

Documents exhibited by the claimant:

1. Ext-1 - Copy of Registration certificate of the Motor No. AS-05-J-4867 (proved in original).
2. Ext-2 – Certified copy of FIR.
3. Ext-3 – Accident Information Report.
4. Ext-5 – Income certificate of the deceased.
5. Ext-6 – Copy of birth certificate of the minor daughter of the deceased (proved in original).
6. Ext-7 - Copy of Admit Card of the deceased (proved in original).

Documents exhibited by the opposite party:

Ni.

Member,
M.A.C.T. Golaghat.

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