West Bengal Form No. 3701
High Court Form No. (J)2

Heading of Judgement in Original Suit/ Case

DISTRICT: JALPAIGURI

IN THE COURT OF MOTOR ACCIDENT CLAIM TRIBUNAL
ADDL. DISTRICT & SESSIONS JUDGE, MALBAZAR, JALPAIGURI

Present : Sri Sanjoy Ranjan Paul [J.O Code : WB 00746]
Judge, Motor Accident Claim Tribunal

M.A.C.C. No. 105 of 2021
(U/S 166 of the Motor Vehicles Act, 1988)
CIS 29 of 2021
CNR NO. WBJP 090000642021

1. **Smt. Madhabi Sarkar** [Mother**]**
2. Smt. Pinki Sarkar [Wife]
3. Abhay Sarkar [Son]
4. Abhirup Sarkar **[**son] ....Claimants

- VS -

1. Hemadri Ghosh....-O.P. No.1.................. (Owner of the Vehicle)

2. TATA AIG Insurance Co. Ltd.----O.P. No.2 (Insurance Co.)

Advocate for claimants : Mr. Kuntal Sarkar

Advocate for OP No.1 : Mr. Samrat Nag

Advocate for OP No. 2 : Mr. Hirak Barman

Date of Judgement : **MAL - Monday, 11 th day of MAY, 2026**

J U D G E M E N T

1. This is an application u/s 166 of the Motor Vehicles Act, 1988 [herein after referred to as M.V. Act] has been filed by the claimants namely **Smt. Madhabi Sarkar** [Mother**], 2. Smt. Pinki Sarkar** [Wife], **3. Abhay Sarkar** [Son], **4. Abhirup Sarkar** [minor son] **of** deceased- Dilip Sarkar for compensation of Rs.58,08,176/- with interest against O.P. No.1 and 2 for the accidental death of Dilip Sarkar which took place on **20.12.2020** in the evening about 07.00 PM near Duramari Simuljhora under Banarhat P.S, Jalpaiguri.

2. The fact of the case, in brief, is that on 20.12.2020, in the evening the victim went to Duramari Simuljhora under Banarhat PS, Jalpaiguri. He was standing at about 7 PM near his father-in-law's house at road side. At that time, the offending vehicle bearing No. WB 72H 8938 came from Duramari bazar towards Nathua in a rash and negligent manner and dashed the victim with force. After hearing the sound, the local people rushed at spot and took the victim to Birpara hospital. The victim was then transferred North Bengal Medical College Hospital at Siliguri but on the way, the condition of victim was serious and he was admitted to Mal hospital and the attending doctor declared him as dead. That the victim- Dulal Sarkar was aged about 47 years of age at the time of the accident and was earning Rs. 41,111/- per month from his business of whole sale electric shop at Malbazar. He was the sole earning member of his family. As such claimants are passing the days with deep sorrow and distress and have claimed for awarding compensation with interest on the **pre-mature** death of Bishal Hansaria on account of mental pain, pecuniary loss, shock, deprivation of love and affection.

3. That the instant case was filed on 10.02.2021 before the Ld. Tribunal, Jalpaiguri u/s 166 of the M.V. Act, 1988 and the same was registered as MAC 105 of 2021. That by order dated 20.03.2021, the matter was thereafter transferred from the Tribunal of Jalpaiguri to this Tribunal for disposal.

4. That the record was received by this Tribunal on 07.04.2021 and fresh summon was issued upon the Opposite Parties. On 23.08.2022, the OP No.1 entered appearance before the Tribunal and filed written statement on 07.04.2022. The OP No.1 denied the age and income of the deceased and submitted that the offending vehicle was insured with Magma HDI General Insurance Company at the time of the alleged accident and was valid from

14.03.2020 to 13.03.2021 having No. P002040004/4102/101078, which was comprehensive and covering all risk and losses. The OP No.1 also denied that the offending vehicle was involved in the alleged accident. It also contended that earlier another compensation application was registered being number 48/21 over the same fact and the same is pending before this Tribunal. According to OP No.1, the deceased was responsible for the accident. The OP No.1 also submitted that at the time of accident the offending vehicle- a motor cycle was registered with RTA, Jalpaiguri and was driven by one Sanjit Roy having valid driving licence. Lastly, the OP No.1 prayed for dismissal of the claim application.

5. On the other hand, the OP No.2, Magma HDI General Insurance Co. entered appearance before this Tribunal on 04.11.2022. Subsequently, on 08.12.2023, the Magma HDI General Insurance Co. filed written statement thereby denying all material allegations.

6. That the opposite party No.2 filed an application u/s 169 on 04.11.2022 and application u/s 170 of the M.V. Act on 08.12.2023 and the same were allowed by this Tribunal.

7. The Insurance Company contested the claim case by filing a written statement denying all the material allegations. By filing the written statement, it submitted that there is no cause of action to file the instant claim case. It denied the age of the victim and the manner of accident. It denied that the accident was caused due to rash and negligent act of the driver of the offending vehicle. It denied the manner of accident happened on 20.12.2020 and also denied the involvement of the offending vehicle. According to the Insurance Company, the application is bad for non-compliance of Rule 329 of the Motor Vehicles Rules, 1989 and no

copy of information report u/s 158(6) of the Motor Vehicles Act, 1988 was forwarded to the Insurance Company from the police station and thus, there was much cloud over the alleged claim of the claimants. It also contended that the opposite party No.1 did not comply the mandatory provisions of section 134(c) of the M.V Act and thus the Insurance Co. is not liable to pay any compensation to the claimants. According to the Insurance Co., the accident was caused due to negligence and fault and callousness of the deceased. According to the Insurance Co., the offending motor cycle was implanted in this case in collusion with OP No.1 only to gain illegally by practising fraud and thus the Insurance Company is not liable to pay any compensation. Insurance Company also submitted that there was absence of verification of valid insurance certificate policy and thus the Insurance Company is not liable to pay any compensation rather the Insurance Company, be expunged from this case. It contended that the driver of the offending vehicle had no valid driving licence and not qualified to obtain such licence. It denied the income of the deceased amounting to Rs. 41,111/-. That the driver was driving the vehicle in violation of the M.V. Act & Rules and also not satisfying Rule 3 of the M.V. Rules and thus had committed the breach the insurance policy. It denied the age and income of the victim and contended that the claim amount is excessive, arbitrary and illegal. So, the OP No.-2 has no liability to pay any compensation to the claimants. It seeks protection u/s 147, 148, 149 of M.V. Act, 1988. It also submitted that the Insurance Company is not entitled to pay any interest on the pecuniary damages as per dictum of the Hon'ble Apex Court. It lastly contended, the claimants be directed to furnish details of PAN number which shall be required for deduction of TDS u/s 194A(3)(ix), 206AA of the Income Tax Act, 1961, if so awarded by the Tribunal.

8. On the basis of the pleadings of the parties, the following issues are framed on recast for proper adjudication of the case :

I S S U E S

i). Is the claim application maintainable in its present form and law ?

ii). Have the claimants any cause of action to file the claim application against OPs?

iii). Did the victim die in a road accident involving vehicle bearing registration No. WB 72H 8938 which took place on 20.11.2020 near Duramari, under Banarhat PS ?

v). Did the accident occur due to rash and negligent driving of the driver of the vehicle bearing registration No. WB 72H 8938

vi) Was the VEHICLE bearing No. WB 72H 8938 duly insured with the OP No.2 ?

vi). Are the claimants entitled to get relief as prayed for ? If so, to what extent?

9. In support of the case, the claimants have examined three witnesses, who are as follows.............

PW-1	Smt. Pinki Sarkar	[Claimant No.2]
PW-2	Smt. Jhuma Das	[Eye Witness]
PW-3	Panu Chongyal Panlook	[Inspector of Income Tax]

10. The following documents have been proved by the claimants in support of the case:-

1. Certified copy of Formal F.I.R. -- Ext-1
2. Certified copy of written complaint - Ext-2
3. Certified copy of charge sheet- Ext.-3
4. Certified copy of Post Mortem Report of the victim– Ext.-4
5. Certified copy of seizure list dated 15.01.2021 -Ext-5
6. Photocopy of Aadhar card of claimant No.1- Ext-6

7. Photocopy of Aadhar card of claimant No.2- Ext-7
8. Photocopy of Aadhar card of claimant No.3 - Ext-8
9. Photocopy of Aadhar card of claimant No.4 - Ext-9
10. Photocopy of school leaving certificate of deceased - Ext-10
11. Photocopy of certificate of enlistment of deceased- Ext-11
12. Photocopy of death certificate of Dilip Sarkar - Ext-12
13. Photocopy of PAN Card of the deceased- Ext-13
14. Photocopy of voter card of deceased- Ext-14
15. Photocopy of Registration certificate of offending vehicle - Ext- 15
16. Photocopy of Insurance of offending vehicle - Ext-16
17. Photo copy of DL of the driver of offending vehicle-Ext-17
18. Photocopy of Aadhar Card of PW2 - Ext-18
19. Letter of Authority Ext- 19
20. ITR OF 2019-2020 of Dilip Sarkar - 8 pages -Ext-20
21. ITR OF 2020-2021 of Dilip Sarkar - 10 pages -Ext- 21

11. On the other hand O.P No. 2 / Insurance Company adduced one witness namely- Debapriya Kumar Barman and proved the following documents in support their contention...........

1. Letter of Authority - Ext- A
2. Letter of authorisation - Ext- B
3. Filed report for claimant verification - Ext-C
4. Filed photograph of business of deceased- Ext-D
5. Photocopy of Inquest Report- Ext-E
6. Photocopy of ID proof of DW1 - Ext-F

DECISION WITH REASONS

Issue Nos. i & ii :

12. These issues are taken up for discussion first.

13. At the time of argument, ld. advocate of the claimants submitted that the claim case is maintainable and there is cause

of action to file this claim case. At the time of argument no specific point has been urged from the side of contesting OP No.2/Insurance Co. I have gone through the pleadings of the parties, evidence on records, both oral and documentary from where I find nothing adverse to the claimants/petitioners that claim case in its present form is not maintainable or there was no cause of action. Rather, I find that the claim application is duly content the cause of action as well as details of parties including claim amount and also detail of the vehicle in question as well as coverage under insurance policy. I also find that the case is filed, well within the jurisdiction of this court. I further find that the Insurance Company in its written statement admitted that if award be granted in favour of the claimants, TDS Rules will be applicable as per Income Tax Act, 1961.

14. Accordingly, these two issues are disposed of in favour of claimants/petitioners.

Issue Nos. iii to vi :

15. These issues are also taken up together for discussion to avoid repeations.

16. At the time of argument Ld. Lawyer for the claimants/petitioners submitted that this is a case u/s 166 of the M.V. Act and the claimants have suffered huge loss due to pre-mature death of their sole earning member who was aged about 47 years old and was doing business and maintained the family with income of Rs.41,111/ per month. He also draws my kind attention towards the documents in this case such as copy of FIR, charge sheet, insurance policy, driving licence, and also other documents of the offending vehicle. In furtherance of it, he also draws my kind attention towards the evidence of PW2 who

according to him, is an eye witness of the incident. According to him, said Dilip Sarkar died due to rash and negligent driving of the driver of the offending vehicle No. WB 72H 8938 left for heavenly abode leaving behind this claimants as his legal heirs. He also submitted that the deceased was a business man and to show the income of the deceased, the claimants have proved the income tax return of two years and those have been marked as exhibits. Accordingly, he prayed for compensation as claimed for.

17. On the other hand, Ld. Lawyer for the OP No.2/ Insurance Company argued that the claimants have failed to substantiate their case. It was his further submission that the claimants have failed to prove the income of the deceased. According to him, the claim amount is too high. According to him, the deceased was sole responsible for the accident due to his own fault and negligence, who was standing at roadside negligently. He also submitted that the offending vehicle was not involved into the accident and not responsible for the alleged accident. Lastly, he has prayed for rejection of the claim application.

18. The Motor Vehicles Act is, at its heart, a social welfare legislation. It operates on the principle of **'no-fault liability'** in specific instances and, crucially, ensures that a third-party claim, often the only lifeline for a family devastated by injury or death, is paid by the insurer. The legislative history of this provision is a fascinating, almost cautionary, tale of reform and regression.

19. Let us have a look into the available evidence on record. PW1 is the claimant No.2 and the wife of the deceased who deposed as to the fact of the case and proved some documents and those have been marked as exhibits 1 to 17. The photo copy of the insurance policy has been marked as exhibit-16 without

objection on the part of the Insurance Company. Apart from those documents, PW1 submitted the photo copy of the Registration certificate, voter card of the deceased, Aadhar cards of the claimants, PM report & death certificate in support of the claim case. All those documents have been marked as exhibits and no objection was raised on the part of the Insurance Company.

20. In cross examination, PW1 deposed that she was not the eye witness of the incident of her husband. She deposed that she did not lodged any complaint before PS regarding the accident of her husband. She deposed that the place of incident is a market place. She also deposed that she did not file any document relating to business of her husband other that filing certificate of enlistment and she did not file any GST registration details of her husband. She deposed that there was one staff in the shop of her husband and she did not give any details of staff.

21. PW2- Jhumpa Das is the eye witness of this accident, which occurred on 20.12.2020. She deposed that she saw the accident as her house was near the place of accident at Duaramari Simuljhora. She corroborated the fact of the case and also corroborated the evidence of PW1. She also deposed that she was standing near road side with some female members and Dilip Sarkar was standing in front her house. She also deposed that the offending vehicle was coming from Duramari bazar towards Nathus and dashed the deceased with force in a rash and negligent manner. On hearing the sound of other local people as well as of her relatives, she rushed to spot and took the victim at Birpara hospital but the victim was referred to North Bengal Medical College and Hospital, Siliguri due to his serious condition. She also deposed that due to critical condition of victim, he was admitted to Mal SD Hospital and the doctor declared him as dead.

22. PW2 further deposed that on the same day and time and on same place another person Smt. Lakshmi Barui Biswas (Bauri) w/o Dhananjoy Bauri of Ethelbari TG, Alipurduar, who was also standing with the deceased- Dilip Sarkar. She proved her Aadhar card and the same has been marked as exhibit-18.

23. In cross examination, PW2 stated that she did not lodge any complaint regarding accident case. She used to call the deceased as 'Jamai babu'.

24. It appears from the charge sheet filed by Banarhat PS that complaint was lodged by one Pradip Sarkar, who is the brother of the deceased. The complaint was lodged against the driver of offending motor cycle. It appears that in course of investigation, the offending motor cycle and its connected papers bearing registration number WB 72H 8938 was seized. It appears that there was arrangement of mechanical examination of the offending and the mechanical expert opined " *however seeing the motorcycle it is conducted that the said motorcycle was involved in an accident other than mechanical failure*." After completion of investigation, charge sheet was filed against the driver of the offending vehicle namely- Sanjit Roy. It appears that said Sanjit Roy surrendered before the ld. CJM, Jalpaiguri and was enlarged on bail on 13.01.2021.

25. It appears from the charge sheet that the investigating officer collected the SCD along with PM report in respect of deceased Dilip Sarkar of Ramkrishna Colony, Ward No.1, PS-Mal, Jalpaiguri in c/w Mal PS UD case No.280/20 dated 21.12.2020 from the Enquiry officer of the UD case and found that PM examination was conducted by Dr. Basudeb Biswas, MO, of District hospital, Jalpaiguri where he opined that death was occurred due to the head injury as noted above, ante mortem in

nature. Post mortem report also reveals that there was external and internal head injury with congestion of brain. So, it cannot be disputed that the road traffic accident took place on 20.12.2020 and the victim died on 21.12.2020.

26. Further, from the evidence of PW1 & 2 it will appear that both corroborated the date and place of accident and the death of Dilip Darkar. It appears Dilip Sarkar was immediately taken to Birpara hospital from where he was referred to North Bengal Medical College & Hospital but on the way the condition was serious and thus, he was taken to Mal SD hospital where the doctor declared him as dead. So, there is also no dispute that the accident was not occurred and Dilip Sarkar was not died due to the accident.

27. In course of argument, ld. advocate of the Insurance Company submitted that the offending vehicle motor cycle has been implanted in this case. According to him, the accident was due to negligent conduct of the deceased. In written statement also, the Insurance Company raised the issue of implantation of the offending vehicle. But in course of investigation, no such objection was raised by the Insurance Company nor the owner of the offending vehicle- Ranjit Roy, nor they moved any Appropriate Forum against the alleged false implantation of the offending vehicle. The OP No.1 in his written statement simply denied the allegation in para 12 that the accident occurred due to negligent act of the deceased. He never raised the issue of false implantation of his vehicle in this case.

28. It appears further Jhuma Das and Laxmi Barui Biswas are the eye witness of the accident but they have not been cited as witness in the charge sheet. **Rather,** the husband of Laxmi Barui Biswas namely- Dhananjoy Barui and the brother of deceased

namely- Pradip Sarkar are the witnesses in the charge sheet. It appears that both of them with the assistance of local people took the victim to Birpara Hospital. It appears from the post mortem report that the death was due to anti-mortem head injuries. There was compression of brain stem. The brain compression causes due to severe head injury with bleeding, swelling.

29. Further, it appears that the Insurance Company deposed one Debapriya Kumar Barman as DW1. He is an employee of OP No.2. He proved the claimant verification report which has been marked as exhibit-C. It appears from exhibit-C that the Insurance Company made an investigation through PRARAMBH INVESTIGATOR and confirmed the death was caused due to road traffic accident. Report also disclosed that KYC was asked for from the brother of deceased who denied to provide the same and also declined to provide other details.

30. DW1 in his evidence deposed that the accident took place on 20.12.2020 involving the vehicle No. WB 72H 8938 which was a motor cycle. He deposed that the motor cycle was insured with the OP No. 2-Insurance Company having Policy No. P0020400004/4102/101078 which was valid from 14.03.2020 to midnight of 13.03.2021. He also deposed that after receipt of notice, the Insurance Company appointed M/S PRARAMBH INVESTIGATOR to investigate the occupation and income of the deceased who was running a whole sale electric shop at Malbazar. He also deposed that the claimants failed to produce any document in support of business of the deceased however there exist the shop of business and the same is running by the brother of the deceased. He also deposed that since the business is running by the legal heirs of the deceased, there is no loss of income and the deceased was running the business without much profit/income and without maintaining any book of

accounts or profit & loss accounts. He proved some documents and those are marked as exhibits-A to D. In cross examination, DW1 denied that whatever he stated in examination-in-chief are false.

31. Now, from the post mortem report, it appears that death was due to head injuries and immediate compression of brain stem. So, there is no hesitation to hold that Dilip Sarkar was not succumbed due to head injuries followed by road traffic accident. Further DW1 also never denied the death of Dilip Sarkar.

32. It appears from the charge sheet that after completion of investigation, charge sheet has been submitted against the driver of offending vehicle u/s 279/304A IPC against the driver of the offending motor cycle by Banarhat PS. It appears that the seizure list dated 15.01.2021 regarding seizure of connected papers of offending motor cycle has been proved and marked as exhibit-5 without any objection of the Insurance Company. So, the seizure list and the charge sheet cannot be disbelieved. So, the question of implantation of offending vehicle for the purpose of the instant case does not arise.

33. Now, from the evidence on records, it is not disputed that an accident had not been taken place on 20.12.2020 at about 7.00 PM and one person died. There is also no dispute in regard to the place of accident. I have gone through the documents such as copy of FIR, charge sheet, insurance policy, Post Mortem report and other documents from where I find that there is no reason to disbelieve the case of claimants that alleged accident was not occurred. The OP No.1 admitted that the motor cycle was insured with the OP. No.2 and the same was valid at the time of accident. It appears that as specific case was started being Banarhat P.S case No. 255/20 dated 21.12.2020 against the

driver of the offending motor cycle. Further one UD case was also started at Mal PS being number 204 of 2021 dated 21.12.2020 and post mortem was done at Jalpaiguri District hospital. The post mortem report has been marked as exhibit-4 which reflects that the death was caused due to antemortem injury.

34. It also evident that the documents of offending motor cycle was valid during the accident. The Insurance Company simply denied the non-issue of insurance policy certificate, but the insurance company also relied upon the same insurance certificate and proved the same and that has been marked as exhibit-B and the same was valid at the time of accident. So, the claimants are entitled to get the compensation.

35. From the claim application, I find that at the relevant time, deceased Dilip Sarkar was aged around 47 years. It will appear from Post Mortem Report and death certificate of the victim that the age was 45 years. PAN card of the deceased mentioned the date of birth as 02.04.1971. No birth certificate has been filed. From the voter card of deceased the year of birth was 1973. So, the age of deceased was 47 years. So, the age of the deceased can be considered as 47 years as per claim application and Multiplier would be 13.

36. So, far as the income is concerned, it appears that the deceased was earning Rs. 41,111/- by way of business. In order to prove the income of the deceased, claimants adduced one Panu Chogyal Panlook, Income Tax Inspector of ITO Ward No.1(3), Siliguri as PW3. It appears that PW3 proved the income tax Return of Dilip Sarkar for the Assessment year 2019-2020, 2020-2021 and those have been marked as exhibit-20, 21 respectively. It appears that those exhibits have been marked without any objection on the part of the Insurance Company.

37. In cross examination, PW3 deposed that he did not know Dilip Sarkar personally. He also deposed that he did not see the business documents of deceased and also could not say the actual income of the deceased. He also admitted that the actual income of the deceased in a month might differ.

38. It is evident that there is no income proof of the deceased except three years Income Tax Return. PW1 deposed that except certificate of enlistment, there is no other document of business of her husband. She could not file any GST details of business. From the exhibits-20 & 21, it will not appear the nature of business of the deceased. It appears that the Return was filed under section 139(1) of the Income Tax Act. It also appears that Gross total income in 2019-2020 was Rs. 3,17,875/-. In 2020-2021 the income was Rs. 5,25,120/-.

39. It also appears that income tax return were filed by the deceased prior to his death. So, those are highly credible because it is a statutory document. Further, the employee of Income Tax Department --Sri Panu Chogyel Panlook has been examined as PW3 and he proved those income tax returns. For self employed individual, the net income declared in ITR can be considered. In ***Vijayalaxmi @ Roopa V Shenoy vs National Insurance CO. & Ors***, the Hon'ble Supreme Court on 11.02.2025 was pleased to hold that Income Tax Returns can be considered for fixing income in road accident cases.

40. In **RAJ KUMAR VS. AJAY KUMAR & ANR. [(2011) 1 SCC 343]** it was observed by the Hon'ble Apex Court as under-- :

"5. The provision of the Motor Vehicles Act, 1988 ('the Act' for short) makes it clear that the award must be just, which means that compensation should, to the

extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffer as money can do so, in a fair, reasonable and equitable manner. The court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned."

41. So, a sum of Rs. 20,000/- per month is taken as Notional income of the deceased in this case after considering the Gross income of the deceased as shown in 2 ITR of the deceased- Dilip Sarkar [as three ITR Have not been filed]. In **Malarvizhi Ors vs United India Insurance Co. Ltd. & Ors (2020)**, the Hon'ble Apex Court was pleased to hold that determination of income must proceed on the basis of Income Tax Return when available being a statutory document.

42. Now, in view of the judgement of the hon'ble Apex Court in National Insurance Company vs **Pranay Sethi,** if the age falling within the 46 to 50 years, in that case multiplier will be available to the extent of 13 and the deceased was fallen in this category will be also taken into consideration for the purpose of calculating amount of compensation. Further, 1/4th [by taking 4 family members] of the total income will be deducted as personal and living expenses. Further 40% will be added as future prospect as the deceased was of 45 years and his income was non-established income in view of the decisions of **National Insurance Co. Vs Pranay Sethi & Ors.**

43. Be it mentioned herein that, brother of the deceased namely- Pradip Sarkar is still running the business of deceased and thus there is no loss of income. Further, he also did not come forward before the Tribunal to establish the electric business of him and his deceased brother.

44. So, the compensation be calculated as follows............

i) Income = Rs.20,000/- per month

ii) *future prospect is added in this case as 40% of established income = Rs. 20,000 x 40%* = Rs. 8,000/- [age below 40 years].

iii) So, the income would be Rs. 20000 + 8000 = Rs. 28,000/-

iii) 1/4th of (ii) be deducted as personal expenses

Rs. 28000/- x 1/4 = Rs. 7000/- [here the dependents are 4, though the father of he deceased did not make any claim nor mentioned as claimant in the claim application].

So, monthly income becomes= Rs.28000 – Rs.7000 = Rs. 21,000/-

iv) Compliance after multiplier will be applied.......

Rs.21000 x 12 x 13 = Rs. 32,76,000/-

45. In addition to this, the claimants will get Funeral expenses to the extent of Rs. 5,000/-, Rs. 20,000 to the extent of loss of Consortium and Rs.15,000/- towards loss of Estate.

46. So, the amount becomes-- Rs.32,76,000/-+ Rs. 5,000/- + Rs. 20,000/- + Rs. 15,000/- = Rs. 33,16,000/-.

47. Therefore, claimants are entitled to get **Rs.33,16,000/-** (Rupees Thirty Three lakh and Sixteen Thousand only) as compensation which will bear by the O.P. No.2 / Insurance Co. along with interest @ 4% per annum ***from the date of filing of the claim case [10.02.2021]*** till realization.

48. In the above, all these issues are disposed of accordingly in favour of the claimants/petitioners.

49. Court Fees are paid correctly.

50. Hence it is,

ORDERED

51. That the **M.A.C. Case No. 105 of 2021** u/s 166 of the M.V. Act, 1988 be and the same is **allowed** on contest against the O.P. No. 2 / MAGMA HDI General Insurance Co. Ltd. and on contest against the O.P. No.1 (owner of vehicle) but without costs.

52. The claimants/petitioners do get an award of Rs. **Rs.33,16,000/-** (Rupees Thirty Three lakh and Sixteen Thousand only) as compensation which will bear by the O.P. No.2 / Magma HDI General Insurance Co. Ltd. along with interest @ 4% per annum from the date of filing of the claim case till realization.

53. The O.P No.2 (Magma HDI General Insurance Co. Ltd.) being the Insurer is directed to pay the awarded amount **Rs. Rs.33,16,000/-** (Rupees Thirty Three lakh and Sixteen Thousand only) **by issuing 4 Account Payee Cheques** ---
Rs. 5,00,000/- to Claimant No.1
Rs. 18,16,000/- to Claimant No.2
Rs. 5,00,000/- to Claimant No.3
Rs. 5,00,000/- to Claimant No.4

along with 4% interest within 90 days here of failing which claimants will at liberty to put this order into execution with further interest @ 06% from the date of order till the date of realization.

54. So far of the rate of interest calculated in the Motor accident cases, it has been decided on the merits and specific facts of the case.

55. Let a copy of this judgment be given to both the parties through their Learned Advocates for information and compliance.

Prepared by me

Judge, M.A.C. Tribunal	**11.05.2026**	**Judge, M.A.C. Tribunal**
MAL, JALPAIGURI	**16.00 IST**	**MAL JALPAIGURI**