

GAHC010000842022



2026:GAU-AS:2533

IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

MACApp./19/2022

1. Reliance General Insurance Co. Ltd.,
Having its registered office at 19, Reliance
Centre, Walchand Hirachand Marg, Ballard
Estate, Mumbai-400001 And one of its
Branch Office at Bhangagarh, G.S. Road,
Guwahati-781005.

.....Appellant

-Versus-

1. Aloka Baishnab,
W/o- Late Tulu Baishnab,
R/o-Village Khelma Pt-VIII(Gobindo Nagar),
P.S. Katigora, P.O. Ghumra Bazar,
Pin-788815, Dist. Cachar.
2. Tushar Baishnab,
R/o-Village Khelma Pt-VIII(Gobindo Nagar),
P.S. Katigora, P.O. Ghumra Bazar,
Pin-788815, Dist. Cachar.
3. Miss Monju Bala Baishnab,
R/o-Village Khelma Pt-VIII(Gobindo Nagar),
P.S. Katigora, P.O. Ghumra Bazar,
Pin-788815, Dist. Cachar.
4. Tapash Baishnab,
R/o-Village Khelma Pt-VIII(Gobindo Nagar),
P.S. Katigora, P.O. Ghumra Bazar,
Pin-788815, Dist. Cachar.

.....Respondents

For appellant : Mr. K.K. Bhatta, Advocate
 For Respondents : Mr. M. Talukdar, Advocate
 Hearing of Judgment : **19.02.2026**
 Date of Judgment : **19.02.2026**

**BEFORE
 HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
 JUDGMENT AND ORDER (ORAL)**

- [1]** Heard Mr. K.K. Bhatta, the learned counsel appearing for the appellant. Also heard Mr. M. Talukdar, the learned counsel for the respondent Nos. 1 to 4.
- [2]** This appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed by the Reliance General Insurance Co. Ltd. impugning the judgment and award dated 08.10.2021, passed by the learned Member, Motor Accident Claims Tribunal, Cachar, Silchar in MAC Case No. 122/2019, whereby the appellant was directed to pay a compensation amount of Rs. 29,27,000/- along with an interest of 7% per annum from the date of filing of the claim petition till realization to the claimant's/respondents.
- [3]** The facts relevant for consideration of the instant appeal, in brief, are that on 23.08.2017, the husband of the respondent No. 1, namely, Tulu Baishnab, was going from Kalain side towards his house by riding a Motorcycle bearing Registration No. AS-11B-7049. When he reached at Khelma Part-VI near Gumrah Bazar on National

Highway No. 6, all of a sudden, a truck bearing Registration No. AS-01BC-1759, which was proceeding from the opposite direction and was being driven in a very rash and negligent manner by its driver, hit his motorcycle.

- [4] As a result of the said accident, the husband of the claimant/respondent No. 1, sustained grievous injuries on his person. He was immediately shifted to Kalain Hospital. However, the doctors declared him dead in the hospital. Thereafter, the present respondent Nos. 1 to 4, had approached the Motor Accident Claims Tribunal, Cachar, Silchar, by filing an application under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the death of Tulu Baishnab in a motor vehicular accident.
- [5] The present appellant, namely, the insurer of the offending vehicle, contested the claim of the present respondents by filing written statement. On the basis of the pleadings of the parties, the Motor Accident Claims Tribunal, Cachar, Silchar framed the following issues:-

ISSUES

"(i) Whether Late Tulu Baishnab, the deceased, died as a result of road traffic/motor vehicle accident occurred on 23-08-2017 at about 11:30p.m. at Khelma Part-VI near Gumrah Bazar under the jurisdiction of Katigorah P.S? If So,

(ii) Whether the accident occurred due to rash and negligent driving by the O.P No-2/driver of the Truck bearing Registration No AS-01BC-1759? If yes,

(iii) Whether the claimants are entitled to any compensation? If so, what is the just and reasonable amount of compensation? AND

(iv) By whom amongst the O.Ps the same is payable?"

- [6]** In order to prove their case, the claimant sides examined the claimant No. 1 as PW-1 and exhibited about 19 documents. The insurance company did not adduce any evidence in defence. Ultimately by the judgment and award which has been impugned in this appeal, the Motor Accident Claims Tribunal, Cachar, Silchar, had allowed the claim petition filed by the respondents/claimants and directed the present appellant to pay compensation to the claimants in the manner as already described in the following paragraphs of this judgment.
- [7]** Mr. K. K. Bhatta, the learned counsel for the appellant, has submitted that the appellant insurance company is aggrieved mainly with the quantum of compensation awarded to the claimants. He submits that the Tribunal wrongly assessed the income of the deceased at Rs. 19,500/- without there being any basis for same on record. He also submits that the Tribunal also erred in relying on the income certificate issued by the Circle Officer and which was exhibited as Exhibit-16. He submits that in the said exhibit, it was stated that the deceased was doing stone business and others, whereas the claimants had themselves claimed that the deceased was doing the business of vehicles.
- [8]** He submits that this contradiction has not been taken into consideration by the Motor Accident Claims Tribunal, while assessing the income of the deceased. He also submits that the claimant's side had failed to produce any document apart from Exhibit-16 like
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the trade licence, the GST certificate and bank statement, book of account and income tax records and the Tribunal therefore arrived at a wrong conclusion while assessing the income of the deceased. He submits that in absence of any concrete proof regarding income of the deceased, the trial court ought to have assessed the income of the deceased at Rs. 8,000/- per month.

[9] He also submits that since the deceased owned two trucks, even after his death, the income could have been generated from the said trucks by the claimants and thereby, no loss of earnings would have been there.

[10] In support of his submission, the learned counsel for the appellant has cited following rulings:-

- i. ***"Dipak Kalita Vs. Divisional Manager and Ors."*** reported in ***"2025 Legal Eagle (GAU) 153;"***
- ii. ***"Suhagrani and Others Vs. Manager Cholamandalam Ms General Insurance Co. Ltd."*** reported in ***"2025 (10)SCC 241."***

[11] On the other hand, Mr. M. Talukdar, learned counsel for the respondents/claimants has submitted that there is no infirmity in the judgment so as to warrant any interference by this court in this appeal. He submits that the trial court after considering the evidence on record has calculated the income of the deceased. He also submits that the income of the deceased was not assessed by the Motor Accident Claims Tribunal on the basis of Exhibit-16.

- [12]** He submits that in Exhibit-16, the annual income of the deceased was shown as Rs. 3,00,000/-(Rupees Three Lakhs only) whereas as per the income assessed by the Tribunal, i.e. Rs. 19,500/- (Rupees Nineteen Thousand Five-Hundred only) per month, the annual income comes to Rs. 2,34,000/-(Rupees Two Lakhs Thirty-Four Thousand only)per annum.
- [13]** Mr. M. Talukdar, also submits that the trial court while assessing the income of the deceased took into consideration that he was the owner of two commercial heavy goods vehicles in addition to motorcycle and it was assessed by the Motor Accident Claims Tribunal that on the basis of his possessing two commercial heavy goods vehicles, his daily income would be Rs. 650/- (Rupees Six Hundred Fifty only), which according to learned counsel for the respondents was on the lower side.
- [14]** He, therefore, submits that the Motor Accident Claims Tribunal has correctly assessed the income of the deceased, though on the lower side and therefore, same need not to be interfered with by this court.
- [15]** He also submits that the contention of the claimants before the Claims Tribunal that the deceased was doing the business of vehicles as well as the certificate produced by them, which was exhibited as Exhibit-16, wherein the Circle Officer has mentioned that the deceased was doing stone business is not contrary to each other in as much as in her evidence-on-affidavit. The PW-1 has

specifically stated that the vehicles were used for carrying stones, bricks etc.

[16] He also submits that the contention of the learned counsel for the appellant that the claimants could have used the trucks for generating the income and therefore, there may not be any loss of earning on their part. It, may also not be accepted in as much as the respondent No. 1 is the wife and the other respondents cannot be regarded as expert in doing the business which was carried out by the deceased.

[17] In support of his submissions, the learned counsel for the respondents has cited following rulings:-

- i. ***"Cholamandalam MS General Insurance Company, Ltd. Vs. Jharna Rani Debnath & Ors.,"*** reported in ***"2019, Legal Eagle (TRI) 697;"***
- ii. ***"Oriental Insurance Co. Ltd Vs. Sulochana Devi Kayal & Ors."*** (Judgment dated 23.04.2014 in MACApp. No. 96/2009.

[18] I have considered the submissions made by the learned counsel for both sides and have gone through the materials on record. I have also gone through the rulings cited by learned counsel for both parties in support of their respective submissions. In this appeal, where the insurance company is claiming that the quantum of compensation awarded to the claimants is on the higher side and that the assessment of income of the deceased was not correctly done by the Motor Accident Claims Tribunal, as the Tribunal relied

on the incomes of the certificate issued by the Circle Officer. However, on bare perusal of the impugned judgment, it appears that the Tribunal has not accepted the annual income stated in the Exhibit-16, which is the income certificate issued by a Circle Officer. Rather, it appears that it has not relied on the same but relied on the other exhibits, i.e. Exhibits-17, 18 and 19.

[19] It also appears that that Exhibit-18 and 19 are the registration certificates of the two commercial heavy goods vehicles of which the deceased was owner and on the basis of the ownership of the same vehicle, the Tribunal assessed the daily income of the deceased at Rs. 650/- (Rupees Six Hundred Fifty only) per day, which by any count, in the considered opinion of this court, appears to be on the lower side.

[20] Hence, this court does not agree with the submission of the learned counsel for the appellant that the assessment of income of the deceased by the Tribunal in the impugned judgment was wrongly done. The rulings cited by the learned counsel for the appellant in the considered opinion of this court, under the facts and circumstances of this case, do not come to the aid of the appellant.

[21] This appeal, therefore, is found to be devoid of any merit and accordingly dismissed.

[22] Send back the records of the Motor Accident Claims Tribunal, along with the copy of this judgment.

- [23]** The appellant insurance company is directed to deposit the awarded amount minus the amount which has already been deposited before the Registry of this court within a period of 2(two) months from the date of this judgment.
- [24]** On receipt of the said amount, the Registry after proper verification shall deposit the same to the bank account of the claimants.
- [25]** This MACApp. is accordingly disposed of.
- [26]** The statutory amount deposited by the appellant may be returned back to the appellant.

JUDGE

Comparing Assistant

Munmun
n Boruah

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by Munmun
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