

GAHC010079042023

2026:GAU-AS:7480



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

MFA/37/2023

United India Insurance Company Ltd.,
Having Its Registered Office at
24 Whites Road, Chennai, and One of the
Regional Office at
GS Road, Dispur.

.....Appellant

-Versus-

1. Barun Das,
S/o Late Dhaneswar Das,
R/o Palachi Amingaon, P.O. Bagulamari,
P.S. Barama, Dist-Baksa, Assam,
Guwahati-781344.
2. Md. Nur Mahammad Ali,
S/o Jamal Ali,
R/o Kaljar, P.O. Kaljar,
P.S. Barama, Dist.Baksa, Assam,
Guwahati-781344.

.....Respondents

**BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA**

Advocate for appellant	:	Mr. K. K. Bhatta, Advocate
Advocate for respondent	:	Mr. I. Haque, Advocate
Date on which judgment is reserved	:	26.02.2026
Date of pronouncement of judgment	:	29.05.2026
Whether the pronouncement is of the Operative part of the judgment	:	N/A
Whether the full judgment has been pronounced	:	Yes

JUDGMENT AND ORDER

- 1.** Heard Mr. K. K. Bhatta, the learned counsel for the appellant. Also heard Mr. I. Haque, the learned counsel for the respondent No. 1.
- 2.** This appeal under Section 30 of the Employees Compensation Act, 1923 has been filed by the appellant/insurance company impugning the judgment and award dated 07.02.2023, passed by the Commissioner, Employees Compensation, Kamrup in W.C. Case No. 28(A)/2020, whereby an amount of Rs. 13,63,280/- was awarded to the respondent No. 1, along with an interest @ 12% per annum from the date of accident till realization.
- 3.** The facts relevant for consideration of the instant appeal, in brief, are that the present respondent No. 1 had filed an application under Section 3 and 22 of the Employee Compensation Act, 1923 before

the Commissioner, Employees Compensation, Kamrup at Guwahati seeking compensation on account of the death of his son, namely, Satyajit Das, in an accident which occurred on 19.10.2019 at about 4:10 PM involving a vehicle bearing Registration No. AS-9AC-2520. The aforesaid application was registered as W.C. Case No. 28(A)/2020. The claim of the present respondent was contested by the owner-cum-driver of the offending vehicle as well as by the insurance company by filing separate written statements.

4. In support of his claim, the respondent No. 1 examined himself as PW-1 before the Commissioner, Employees Compensation, Kamrup and exhibited certain documents. The insurance company did not adduce any evidence. However, the employer of the deceased was examined by the Court as Court Witness. Ultimately, by the impugned judgment, the Commissioner, Employees Compensation, Kamrup had allowed the claim of the respondent in the manner as discussed in the foregoing paragraphs hereinabove.
5. On 10.05.2023, a Coordinate Bench of this Court, after perusing the Memorandum of Appeal as well as materials available on record and after considering the submission of the learned counsel for the appellant formulated the following substantial question of law in this appeal:-

"Whether the learned Commissioner was justified to consider the wage of the deceased/workman at Rs. 12,000/- per month and to compute the compensation accordingly in as much as, as per the

Government Notification, which was in force at the time of the accident, the statutory salary ceiling for any workman was Rs.8,000/- per month?”

6. Mr. K. K. Bhatta, the learned counsel for the appellant submitted that the Commissioner, Employees Compensation, Kamrup had erred in passing the impugned judgment and award dated 07.02.2023 by taking the wage of the deceased employee at Rs. 12,000/-, per month ignoring the Notification dated 31st May, 2010 issued by the Ministry of Labour And Employment, whereby the monthly wages as referred to in Section 4(1B) was fixed @ Rs. 8,000/-, therefore, he submits that the Commissioner, Employees Compensation, Kamrup was wrong in taking the monthly wage of the deceased employee (son of the respondent No. 1) @ Rs. 12,000/- per month.
7. He further submits that while computing the monthly wage of the deceased employee, the Commissioner also erred in regarding the daily allowances which was given to the deceased employee @Rs. 100/- per day, as a part of the wages.
8. In support of his submission the learned counsel for the appellant has cited the following rulings:
 - i. ***K. Sivaraman and Others Vs. P Sathishkumar and Another*** reported in ***(2020) 1 SCC 594***
 - ii. ***Reliance General Insurance Company Ltd. Vs. Manovara Begum and Another*** (Judgment dated 21.08.2025 in MFA No. 13/2023 of a Coordinate Bench of this Court)

iii. *Oriental Insurance Company Ltd. Vs. Lakhmai Das* reported in 2006 (3) GLT 870

- 9.** On the other hand, Mr. I. Haque, the learned counsel for the respondent No. 1 has submitted that the Central Government has notified and enhanced ceiling of monthly wages under Section 4 (1B) of the Employees Compensation Act, 1923 to Rs. 15,000/-.
- 10.** He submits that the Employee Compensation Act, 1923 being a social beneficial legislation, its provisions and amendments thereto must be interpreted so as not to deprive the employees of the benefit of the legislation. He submits that the object of the Act is to ameliorate the hardship of economically poor employees, who were exposed to risk in work or occupational hazards by providing a cheaper and quicker machinery for compensating them with pecuniary benefits. He further submits that to give the benefit of the statutory provisions of the Act to the claimant, the learned Commissioner correctly took into consideration the actual earnings of the deceased at the time of his death.
- 11.** The learned counsel for the respondent No. 1 has submitted that the Commissioner Employees Compensation was also right in adding the daily allowance to the monthly salary of the deceased in computing the monthly wages of the deceased. He submits that what has been excluded from the meaning of wages under Section 2 (m) of the Employees Compensation Act, 1923 is only the travelling allowances and special allowances. He submits that the daily allowances paid to the deceased cannot be regarded as travelling allowances or special

allowances, hence, the learned Commissioner was not at fault in including the daily allowances while computing the monthly wages of the deceased. He, therefore, submits that the compensation awarded to the claimant need not to be interfered with. He prays for dismissing the instant appeal. In support of his submission, the learned counsel for the respondent No. 1 has cited the following rulings:

- i. ***Oriental Insurance Company Ltd. Vs. Sajala Begum Borbhuiyan and Others*** reported in ***2017 (1) GLT 111***
- ii. ***Oriental Insurance Company Ltd. Vs. Pradeep Kumar De*** reported in ***2017 (3) GLT 730***
- iii. ***Mahadevi Vs. Divisional Controller, NEKRTC*** (SLP Civil No.12315 of 2024)

12. I have considered the submission made by the learned counsel for both sides and also have gone through the materials available on record. I have also gone through the rulings cited by the learned counsel for both sides.
13. The limited question for determination before this Court is as to whether the learned Commissioner erred in computing the monthly wages of the deceased workman as Rs. 12,000/-, which is more than the upper ceiling of Rs. 8,000/- prescribed by Government Notification, which was prevalent in this regard at the time of accident.

- 14.** There is no dispute regarding the fact that the accident in question in the instant case occurred on 19.10.2019 whereas the notification No. S.O.71(E) enhancing the upper ceiling to Rs.15,000/- was issued, on 3rd January 2020, by the Central Government under Section 4(1B) of the Employees Compensation Act, 1923. Whereas, the Notification No. S.O.1258(E) dated 31.05.2010 was prevalent at the time of occurrence of accident in the instant case. The said notification provided for an upper salary ceiling of employees at Rs. 8,000/- per month.
- 15.** Under Section 4 (1B) of the Employees Compensation Act, 1923, the Central Government may by Notification in the official gazette specified for the purpose of sub-section (1), such monthly wages in relation to an employee as it may consider necessary. Accordingly, the Central Government had issued relevant notifications from time to time. In this regard, Notification No. S.O.1258(E) dated 31.05.2010 was issued by the Central Government fixing the monthly wages at Rs. 8,000/-. However, neither in the provisions contained in Section 4 (1B) of the Employees Compensation Act, 1923, nor in the Notification dated 31.05.2010, it has been indicated that Rs. 8,000/- shall be the upper ceiling of the monthly wages in relation to an employee for the purpose of computing the quantum of compensation under Section 4(1) of the said Act.
- 16.** It is pertinent to mention that prior to the Act 45 of 2009, by virtue of a deeming provision in Explanation II to Section 4, the monthly wages of an employee were kept at Rs. 4,000/- even where an employee was able to prove, the payment of monthly wage in excess
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of Rs. 4,000/-. The legislature, in its wisdom and keeping in mind that the purpose of the aforesaid Act, i.e., social welfare legislation deleted the deeming provision from the statute. After deletion of such deeming provision, unless the Central Government specifically mentions in the Notification published by it, under Section 4(1B) of the aforesaid Act, that the monthly wages specified by it in the Notification is the upper ceiling, same cannot be deemed to be as upper ceiling of the monthly wage. Hence, this Court is of the considered opinion that if the claimant is able to prove that the wages of the deceased employee was more than the amount specified by the Central Government in the notification under Section 4(1B) of the aforesaid Act, the actual wages at the time of the accident of the deceased employee shall be taken into consideration for the purpose of computing the compensation under Section 4 (1) of the Employees Compensation Act, 1923.

- 17.** Section 2 (m) of the Employees Compensation Act, 1923 provides as follows:

"wages", includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of an employee towards any pension or provident fund or a sum paid to an employee to cover any special expenses entailed on him by the nature of his employment;

- 18.** On a bare perusal of the aforementioned provision makes it clear that any privilege or benefit which is capable of being estimated in money may be included within the meaning of term “wages” under Section 2(m) of the Employees Compensation Act, 1923. What is excluded therefrom has been specifically mentioned in the said provisions itself i.e., travelling allowances, value of any travelling concession, a contribution paid by the employer or employee towards any pension or provident fund or a sum paid to an employee to cover any special expenses entailed on him by the nature of his employment. Thus, what has been excluded is any special expenses entailed on the employee by the nature of his employment. It does not exclude the daily allowances, which is not specifically shown to be special expenses entailed on the employee by the nature of his employment, by any stretch of imagination. The law laid down in the case of ***Oriental Insurance Company Ltd. Vs. Lakhmai Das (Supra)*** would not have any application to the fact of the present case, as nothing is there on record to show that the daily allowances paid to the deceased by the employer was on account of any special expenses entailed on the employee by the nature of his employment.
- 19.** Thus, the substantial question formulated in the instant appeal is answered in affirmative. This Court is of the considered opinion that the learned Commissioner, Employees Compensation, Kamrup had correctly assessed the monthly wages of the deceased employee at @Rs. 12,000/- for the purpose of computation of compensation under Section 4(1) of the Employees Compensation Act, 1923 and

same needs no interference by this Court in exercise of its appellate jurisdiction.

- 20.** In view of the discussion made and the reasons cited in the foregoing paragraphs, this Court is of the considered opinion that the instant appeal is devoid of any merit.
- 21.** Accordingly, this appeal is dismissed.
- 22.** The insurance company shall pay the outstanding compensation, which is due to the claimant in terms of the judgment impugned in this case within a period of four weeks from the date of this judgement.
- 23.** Send back the records of the Trial Court along with a copy of this judgment to the learned Commissioner, Employees Compensation, Kamrup.

JUDGE

Comparing Assistant

**Amita
Sharma**

Digitally signed by
Amita Sharma
Date: 2026.05.29
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