GAHC010060142018

2026:GAU-AS:4141

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

Case No. : MACApp./708/2018

SANJAY DAS
S/O SRI NEPAL DAS, RESIDENT OF KAULI CHANDRAPUR, PS TAMULPUR, DIST BAKSA, ASSAM

VERSUS

UNITED INDIA INSURANCE COMPANY LIMITED AND 2 ORS
DIVISIONAL MANAGER, DIVISIONAL OFFICE, GUWAHATI 781005
(BIJOYNAGAR BRANCH) (INSURER OF THE VEHICLE NO AS 14/6079)

2:SRI HARI DEV DAS
S/O SRI GOJEN DAS
VILLAGE RANGIA TINIALI
POLICE STATION RANGIA DISTRICT KAMRUP ASSAM-781354
(OWNER OF THE VEHICLE NO. AS 14/6079)

3:SRI KRISHNA NATH
S/O LATE NANDA NATH VILLAGE BANEGAON
PS TAMULPUR
DIST NALBARI
ASSAM
781367
OWNER OF THE VEHICLE NO. AS 14/607

Linked Case : MACApp./488/2017

UNITED INDIA INSURANCE CO. LTD.
HAVING ITS REGISTERED OFFICE and HEAD OFFICE AT 24 WHITES ROAD
CHENNAIA AND ITS REGIONAL OFFICE AT G.S. ROAD
DISPUR
GUWAHATI.

VERSUS

SANJAY DAS and 2 ORS

S/O SRI NEPAL DAS
R/O KAULY CHANDARPUR
PS. TAMULPUR
DIST. BAKSA
BTAD
ASSAM
PIN CODE 781367

2:HARI DEV DAS
S/O LATE GAJEN DAS
R/O RANGIA TOWN
WARD NO. 6
P.S. RANGIA
DIST. KAMRUP R
ASSAM
PIN CODE 781354

3:KRISHNA NATH
S/O LATE NANDA NATH
R/O VILL. BANIGAON
P.S. TAMULPUR
DIST. NALBARI
PIN 781367

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

For the appellant : Mr. R. Goswami, Advocate
(in MAC Appeal No. 488/2017)

: Mr. A. Lal, Advocate
(in MAC Appeal No. 708/2018)

For the respondents : Mr. R. Goswami, Advocate
(For respondent No. 1 in MAC Appeal No.

708/2018)

: Mr. A. Lal, Advocate
(for respondent No. 1 in MAC Appeal No. 488/2017)

: Mr. M. K. Sarma, Advocate
(for owner/respondent No. 2 in both the appeals)

Date of Hearing : **21.11.2025**

Date of Judgment : **16.03.2026**

JUDGMENT & ORDER

1. Heard Mr. R. Goswami, the learned counsel for the Insurance Company *(appellant in MAC Appeal No. 488/2017 and respondent No. 1 in MAC Appeal No. 708/2018).* Also heard Mr. A. Lal, the learned counsel for claimant *(appellant in MAC Appeal No. 708/2018 and respondent No. 1 in MAC Appeal No. 488/2017)* as well as Mr. M. K. Sarma, the learned counsel for the owner of the offending vehicle (respondent No. 2 in both the appeals).

2. Both the above-mentioned appeals arise from the common judgment dated 07.07.2017, passed by the Motor Accident Claims Tribunal No. 1, Kamrup, Guwahati, in MAC Case No. 2284/2008. Hence, by this common judgment, it is proposed to dispose of both the above-mentioned appeals.

3. The MAC Appeal No. 488/2017 has been filed by the United India

Insurance Company Limited, wherein the appellant has disclaimed its liability to indemnify the owner of the offending vehicle on the ground that when the ill-fated accident occurred, in which the claimant sustained injuries, the offending vehicle was not under any insurance cover.

4. On the other hand, the MAC Appeal No. 708/2018 has been filed by the claimant, *Shri Sanjay Das*, on being aggrieved by the quantum of compensation awarded to him by the impugned judgment. It is contended that under certain heads against which the compensation awarded to him was computed, he ought to have get more amount than what has been assessed by the Motor Accident Claims Tribunal.

5. The facts relevant for consideration of the instant appeals, in brief, are that the claimant, Sanjay Das, was traveling in a bus bearing registration No. AS-14/6079, on 06.05.2008, from Guwahati to Kauli. When the aforesaid bus reached Amingaon near Dalda factory, at about 2:30 PM, due to rash and negligent driving of the bus by its driver, it overturned. As a result of which the claimant sustained grievous injuries on his person and ultimately his right hand had to be amputated.

6. The claimant, thereafter, approached the Motor Accident Claims Tribunal No. 1, Kamrup at Guwahati by filing an application under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the injuries sustained by him in the motor vehicular accident which occurred on 06.05.2008. The Insurance Company appeared in the said proceeding and filed its written statement. It took the plea that on the date of accident, the offending vehicle, involved in the accident, was not under any insurance cover by any valid policy of insurance. The owner and driver of the offending bus, i.e., opposite party Nos. 2 and 3, did not appear, at the first instance, before the Motor Accident Claims Tribunal. Accordingly, the inquiry proceeded *ex-parte* against the owner and the driver. Thereafter, by its judgment and award dated 04.02.2011, the Motor Accident Claims Tribunal allowed the claim petition filed by the claimant and awarded him a compensation of Rs.5,78,000/- together with interest at the rate of 6% per annum from the date of filing of the claim petition till realization. The owner of the vehicle was directed to pay the compensation amount to the claimant within a month of the date of the said judgment.

7. However, later on, the owner of the vehicle approached the Motor Accident Claims Tribunal and filed an application for vacating the *ex-parte* judgment mainly on the ground that he was not notified about the pendency of the Motor Accident Claims Case No. 2284/2008. The Motor Accident Claims Tribunal allowed the application filed by the owner of the offending vehicle and set aside the *ex-parte* judgment and award and restored the aforesaid claims case.

8. Upon restoration of the inquiry, the owner filed his written statement and produced the insurance policy as well as money receipt dated 06.05.2008 by which the premium against the aforesaid policy was paid.

9. On the basis of the pleadings of the parties, following issues were framed by the Motor Accident Claims Tribunal:-

"*(i) Whether the claimant sustained injuries in the alleged accident dated 06.05.2008 involving vehicle No. AS-14-6079 and whether the accident occurred due to rash and negligent driving by the driver of the aforesaid vehicle?*

(ii)Whether the claimant is entitled to get any compensation for the injuries sustained by him in the said accident, if yes, what will be the just and reasonable amount of compensation?"

10. In support of his claim, the claimant examined himself as PW-1 and exhibited certain documents. The owner did not adduce any evidence. However, the Insurance Company examined one Tikendrajit Das, Divisional Officer, (Admin), United India Insurance Company Limited as its witness.

11. Ultimately, by the impugned judgment and award, the Motor Accident Claims Tribunal No. 1, Kamrup, Guwahati allowed the claim petition filed by the claimant and this time awarded him a compensation of Rs.6,24,000/- with an interest at the rate of 7% per annum from the date of filing of the claim petition till its realization. This time, the opposite party No. 3, i.e., the United Insurance Company Limited was directed to pay the awarded amount to the claimant within a period of one month from the date of judgment. Being aggrieved by the aforesaid judgment, present set of cross-appeals have been filed by the Insurance Company as well as by the claimant.

12. Mr. R. Goswami, the learned counsel for the Insurance Company has submitted that there is no dispute amongst the parties as regards the fact that the accident in question occurred on 06.05.2008 at about 2:30 PM near Amingaon Dalda Factory, as apparent from Column No. 3 of the Accident Information Report.

13. The learned counsel for the Insurance Company, however, submits that on perusal of the certificate of insurance, a copy of which was produced by the owner of the offending vehicle before the Motor Accident Claims Tribunal, it appears that the said certificate of insurance was printed at 3:30 PM on 06.05.2008, which indicates that in all human probabilities, the insurance policy was obtained after occurrence of accident *(which occurred at 2:30 PM)* on the same date at 3:30 PM. He submits that though the Insurance Company has not adduced any specific evidence in this respect, however, when there are materials on record to indicate that in all human probabilities, the owner, after the accident, had rushed to Rangia, where the office of the Insurance Company was situated, to obtain the policy of insurance after the accident, in order to shift any liability of paying compensation to any person injured in the accident. In support of his submission, he has cited a ruling of the Apex Court in the case of "***Sumati Dayal Vs. Commissioner of Income Tax, Bangalore***" reported in "***AIR 1995 SC 2109***". He submits that the copy of insurance policy produced by the owner of the offending vehicle is in itself sufficient to come to the conclusion that same was obtained at about 3:30 PM on 06.05.2008 after the accident which occurred on 2:30 PM on the said date. He, therefore, submits that the Insurance Company is not liable to indemnify the owner in respect of the compensation to be paid to the claimant for the injuries sustained by him in the said accident.

14. The learned counsel for the Insurance Company has further submitted that it is also apparent from the certificate of insurance as well as the cover note of the insurance policy that the insurance cover of the offending vehicle was effective from 08.05.2008 only. He submits that though the policy was issued on 06.05.2008, however, in view of the clear stipulation in the insurance policy itself that it shall be effective from 08.05.2008, the Insurance Company could not have been made liable for indemnifying the owner as regards the accident which has occurred on 06.05.2008 when there was no insurance cover. He submits that the Apex Court in the case of "***New India Assurance Company Limited Vs. Ram Dayal and ors."*** reported in "***(1990) 2 SCC 680***" has clarified that in absence of any specific time being mentioned in the policy for coming into its effect, the logical inference to draw was that the insurance became effective from previous midnight. He, however, submits that in the instant case as a specific date of coming into effect of the insurance policy has been categorically stated in the policy as well as cover note, the presumption provided for by the Apex Court in the above case, may not be applicable and the policy would become effective only from the date which is mentioned in the policy itself.

15. He submits that as a specific time and date has been stated in the insurance policy itself from which the said policy would come into effect, any contrary interpretation given to the insurance policy for making it operative before the time which has been specifically mentioned in the policy would be contrary to law. In support of his submission, the learned counsel for the Insurance Company has cited following rulings:-

(i) "***National Insurance Co. Ltd. vs. Sobina Iakaiand Others***" reported in "***(2007) 7 SCC 786***"

(ii) "***New India Assurance Company Vs. Bhagwati Devi***" reported in "***(1998) 6 SCC 534***"

(iii) "***Oriental Insurance Company Limited Vs. Sunita Rathi and Ors***." reported in "***(1998) 1 SCC 365***"

16. The learned counsel for the Insurance Company has further submitted that a policy of insurance is a contract based on an offer and acceptance and when the said contract itself lays down a stipulation to the effect that the insurance cover of the insured vehicle would be effective from 08.05.2008, the Insurance Company could not be made liable to indemnify the owner for any damage caused by the said vehicle before the said date. In support of his submission, the learned counsel for the Insurance Company has cited a ruling of the Apex Court in the case of "***Deokar Exports Private Limited Vs. New India Assurance Company Limited***" reported in "***(2008) 14 SCC 598***".

17. The learned counsel for the Insurance Company has further submitted that as regards the quantum of the compensation awarded by the Motor Accident Claims Tribunal, it may not require any interference by this Court as same appears to be reasonable, fair and just.

18. On the other hand, Mr. A. Lal, the learned counsel for claimant has submitted that the tribunal has correctly directed the insurance company to indemnify the owner of the offending vehicle for the compensation to be paid to the claimant on account of injuries sustained by him in the aforementioned accident. He submits that though the quantum of the compensation awarded to the claimant by the Motor Accident Claims Tribunal is on the lower side, however, the liability to pay the same by the Insurance Company has been correctly decided by the Motor Accident Claims Tribunal.

19. The learned counsel for the claimant has submitted that the mere fact that the printout of the Insurance Policy, produced by the claimant, appears to have taken at 3:30 PM on 06.05.2008, would not indicate that the policy was issued at that time. He submits that when no specific time has been mentioned as to when the policy was issued, it is reasonable to deem it to have been issued at midnight of the previous day. He further submits that there is no evidence on record to suggest that a policy was issued after the accident i.e., after 2:30 PM on 06.05.2008. He further submits that the time indicated in the bottom right-hand side of the copy of insurance policy produced by the claimant, i.e., 3:30 PM merely shows the time when the printout of the policy was taken. He submits that no other inference may be made from the same. He submits that the contention of learned counsel for the appellant to the effect that it may be presumed in all human probabilities that the insurance policy has been obtained after the accident involved in this case, does not have any basis and same is liable to be rejected.

20. He further submits that the stipulation in the insurance policy that it would come into effect from a later date i.e., 08.05.2008 is inconsistent with the provisions of Motor Vehicles Act, 1988 which is a beneficial legislation for the third-party sufferers of any vehicular accident. He submits that any stipulation in the contract of insurance which curtails the right of a third-party in a vehicular accident would be void. He submits that if the insurance policy stipulates the third-party coverage would commence from a future date even after payment of premium by the insured, such a stipulation can be made only with the express consent of the insured (policy holder).

21. He submits that the insurer cannot unilaterally introduce a condition in the policy that it shall take effect from a later date without the knowledge or consent of the insured.

22. In support of his submission, the learned counsel for the claimant has cited following rulings: -

(i) "***Balbir Kaur & Ors. Vs. New India Assurance Company Limited and Ors***." reported in "***2009 STPL 8337 SC***"

(ii) "***Anju Kalsi Vs. HDFC ERGO General Insurance Company Limited and Anr***." reported in "***(2022) 6 SCC 394***"

(iii) "***Oriental Insurance Company Limited Vs. Venkataraman***" reported in "***(2012) SCC OnLine Mad 2661***"

(iv) "***National Insurance Company Limited Vs. Swaran Singh and Ors.***"

reported in "***(2004) 3 SCC 297".***

23. The learned counsel for the claimant has also submitted that the sole witness for the Insurance Company has also deposed during his cross-examination that as per payment in cash, the company is liable. He further submits that if there are any special terms in the insurance policy, same has to be specifically communicated to the policy holder. It is the burden of the Insurance Company to establish clearly that such special conditions were in fact brought to the notice of the policyholder, however, he submits that in the instant case, there is no material to indicate that the policyholder was intimated about the special condition of the insurance policy when the premium for the said policy was taken by the insurance holder on 06.05.2008.

24. The learned counsel for the claimant/respondent further submits that the obligation for third-party insurance has been inserted in the statute in order to protect the members of the community traveling in vehicles or using the roads from the risks attendant upon the user of motor vehicles, it has not been inserted to promote the business of the Insurance Company. He submits that the third-party insurance has been made mandatory by the legislature only because the law may grant a right to compensation to those injured in motor accidents or to the dependents of those who die, but such right would become meaningless unless the compensation awarded can be actually recovered from the person held liable. He submits that the mandatory third-party insurance is incorporated in the statute as a means to ensure that in event of any liability incurred by the owner of the insured vehicle, same may be indemnified by the

Insurance Company and a person who lacks means to pay is not compelled to pay compensation in case of such motor accident.

25. In respect of the cross-appeal filed by the claimant, i.e., MAC Appeal No. 708/2018, the learned counsel for the claimant has submitted that the quantum of the compensation to be paid by the Insurance Company to the claimant, as assessed by the Tribunal is not a just compensation, as it has failed to take into consideration that the compensation of Rs.20,500/- awarded against the head of medical expenses is disproportionately meager. He submits that the claimant was admitted in hospital as an indoor patient for 50 days i.e., from 06.05.2008 to 26.07.2008.He further submits that the claimant is a resident of Kauli, Chandrapur under Tamulpur Police Station in Baksa District of Assam, which is situated at a distance of about 22.2 kilometers from Guwahati Medical College & Hospital and he has incurred substantial expenses for traveling to the hospital during his treatment. He submits that the tribunal failed to take into consideration these aspects, while computing the compensation. He also submits that as the claimant suffered amputation of his right hand, he is entitled to get compensation for enabling him to use a prosthetic hand. He also submits the interest awarded by the tribunal on the amount of compensation may also be enhanced @ 12%.

26. Mr. M. K. Sarma, the learned counsel for the respondent No. 2 (the owner of the offending vehicle) has submitted that the Motor Accident Claims Tribunal has correctly directed the Insurance Company to indemnify the owner for the compensation to be paid to the claimant for the injuries sustained by him in the accident.

27. He submits that there is no dispute regarding the fact that the accident in question had occurred at about 2:30 PM on 06.05.2008. He further submits that it is also not disputed that the insurance policy was taken by the owner of the offending vehicle by paying the premium to the Insurance Company on 06.05.2008 itself, however, no specific time of taking the premium for issuance of the insurance policy has been mentioned anywhere.

28. The learned counsel for the respondent No. 2 submits that when there is no specific mention anywhere regarding the time when the insurance policy was taken, it is a settled law that the policy taken during any part of the day becomes operative from the commencement of the day, i.e., the midnight of the previous day. In support of his submission, he has cited a ruling of the Apex Court in the case of "***New India Assurance Company Limited Vs. Ram Dayal and others***" reported in "***(1990) 2 SCC 680***".

29. The learned counsel for the respondent No. 2 has submitted that the Insurance Company has received an amount of Rs.16,450/- at the time of taking premium for the insurance of the offending vehicle on 06.05.2008. He submits that in the money receipt issued by the Insurance Company, though, the date has been clearly specified as 06.05.2008, however, no time of issuance of the said receipt has been mentioned therein. He further submits that the Insurance Company has adduced no evidence to show that the money receipt was issued after the accident, i.e., after 2:30

PM. He, therefore, submits that as no time has been specified in the money receipt, the said money receipt is deemed to have been issued and would be effective from the starting of the day, i.e., at midnight of 05.05.2008. He submits that the Insurance Company has not adduced any evidence to prove anything contrary to the above fact.

30. The learned counsel for the respondent No. 2 also submits that as per Section 64VG of the Insurance Act, 1938, the commencement of risk cover starts from the date and time on which premium has been received by the Insurance Company and any contrary stipulation thereto has to be specifically communicated to the policy holder. However, in the instant case, there is nothing to show that the owner of the offending vehicle was intimated about the fact that the policy shall come into effect from 8th of May, 2008, before the accident. It was only intimated to him after the accident when he received the insurance policy after 3:30 PM.

31. The learned counsel for the respondent No. 2 has submitted that the Insurance Company has failed to prove that the special condition of delayed coming into effect of the insurance policy was inserted with consent of the owner of the offending vehicle and as such the policy covers commences in the instant case from the date and time of the payment of premium to the Insurance Company. The learned counsel for the respondent No. 2 has also cited a ruling of the Apex Court in the case of "***Kajal Vs. Jagdish Chand and others***" reported in "***(2020) 4 SCC 413***.

32. I have considered the submissions made by learned counsel for all the parties and have gone through the materials available on record. I have also perused the rulings cited by learned counsel for both the sides in support of their respective submissions.

33. On perusal of the materials available on record, it appears that there is no dispute regarding the fact that the accident in question had occurred at about 2:30 PM on 06.05.2008. There is also no dispute regarding the fact that the premium in respect of the insurance policy of the offending vehicle was received by the Insurance Company on 06.05.2008 itself. Same has also been admitted by the sole witness examined for the Insurance Company. It also appears from the money receipt of the insurance premium issued to the owner of the offending vehicle that the premium for the insurance policy was received by the Insurance Company on 06.05.2008 itself. Though, no time for receipt of the insurance premium has been reflected therein. However, the fact that the premium was received after the accident, i.e., after 2:30 PM on the aforesaid date, could not be proved by the insurance company. There is also no material on record to suggest that the time as reflected in the left-hand bottom side of the copy of the insurance policy produced by the claimant before the Tribunal, indicate the time of obtaining the insurance policy by the respondent No. 2. Said time i.e., 3:30 PM, cannot be regarded as the time when the premium was paid or the time when the insurance policy was issued. It only indicates the time at which the printout of the policy was taken. Nothing more can be inferred from the said time mentioned in the left-hand bottom corner of the copy of the insurance policy. The Insurance Company, though examined one witness in support of its contentions, has failed to prove the time at which the premium was taken by the Insurance Company or time at which policy was obtained by the owner of the offending vehicle. The materials on record only indicate that the insurance policy was issued on 06.05.2008 and the premium for the said policy was also taken by the Insurance Company on the said date.

34. As the materials on record, more particularly, the testimony of DW-1 (insurance witness) as well as the receipt of payment of premium of the insurance policy clearly indicates that the premium was paid by the owner of the offending vehicle to the Insurance Company on 06.05.2008 itself and as no time has been mentioned or could be proved at which the premium was taken by the Insurance Company, there is nothing on record to suggest that the policy was obtained after 2:30 PM, i.e., after the accident had already occurred.

35. Accepting the submissions made by learned counsel for the appellant that as the time of taking printout of the copy of policy, which was submitted by the claimant before the Tribunal, indicates that it was taken out at 3:30 PM, it indicates that in all human probabilities, the policy was also obtained at that time, would be giving way to conjectures and surmises only as no cogent evidence is there on record to arrive at that conclusion.

36. It is a settled proposition of law that the risks usually commences from the date and time on which the premium is received by the Insurance Company unless there is a stipulation to the contrary.

37. In the instant case, the contention of the Insurance Company is that as the insurance policy as well as the cover note specifically stipulates that the insurance cover would come into effect only from 08.05.2008, hence, the offending vehicle was not under any insurance cover on 06.05.2008 when the accident occurred. The said contention was not accepted by the Motor Accident Claims Tribunal while attributing the liability on the Insurance Company to indemnify the owner.

38. The Apex Court of India in the case of "***Balbir Kaur and others versus New India Assurance Company Limited***" reported in "***(2009) 13 SCC 370***" has observed that though an insurance policy may be made effective from a future date i.e., on any date after receipt of the premium, however, if such a stipulation is made, the consent of the holder of policy is necessary and the Insurance Company cannot issue a policy unilaterally from a future date without the consent of holder of the policy.

39. In the instant case, the accident in question had already occurred at 2:30 PM, however, there is nothing on record to indicate that the stipulation in the cover note as well as in the insurance policy that the policy would be effective from a future date, i.e., 08.05.2008 was intimated to the owner of the offending vehicle at the time of accepting the premium for the insurance company. The Insurance Company had not adduced any evidence to indicate that at the time of taking premium from the owner of the offending vehicle, he was intimated that the policy would be effective from 08.05.2008. If the policy is to be made effective from a future date, it was incumbent on the Insurance Company to inform the same to the insured (the owner of the offending vehicle) at the time of taking the premium for the aforesaid policy. It cannot, later on, unilaterally decide to make the insurance cover effective from a future date without the consent of the policy holder. Same would be against public policy as well as also against the objective of the Motor Vehicles Act in making the third party risk cover insurance as mandatory. As the Insurance Company has failed to adduce any evidence to indicate that the consent of the owner of the offending vehicle was obtained in incorporating a stipulation relating to making the insurance policy effective from a future date or that same was communicated to him at the time of receipt of premium, the Insurance Company cannot deny its liability of indemnifying the owner after having received the premium.

40. Under the peculiar facts and circumstances of this case, this court is of considered opinion that the Insurance Company has no other option but to accept the liability as well as the fact that the commencement of policy would be from the time of receipt of the premium. Further, as it has failed to specify the time of receipt of the premium, same shall be deemed to have been received at the beginning of the day on which the premium was received i.e., at midnight of 05.05.2008.

41. For the aforesaid reasons, this court is reluctant to interfere in the finding of the Motor Accident Claims Tribunal to the effect that the Insurance Company is liable to indemnify the owner regarding payment of compensation to the claimant for the injuries sustained by him in the aforementioned motor vehicular accident.

42. As regards the question as to whether the tribunal has correctly computed the quantum of compensation, which was awarded to the claimant is concerned, it has been well settled in a catena of decisions by the Apex Court that in case of accidents involving personal injury cases, the compensation is to be computed under following heads:-

(a) Expenses incurred for treatment, hospitalization, transportations, etc., of the injured during the course of treatment.

(b) Loss of earning during the period of treatment as well as loss of future earning on account of permanent disability caused to the injured.

(c) Future medical expenses.

(d) damages caused for pain, suffering, and trauma as a consequence of injuries and loss of amenities and loss of expectation of life.

43. In the instant case, the tribunal has awarded Rs.20,500/- against medical expenditures as the claimant could produce vouchers only to the extent of the aforesaid amounts. The tribunal has also awarded an amount of Rs.50,000/- against the head of incidental expenses during treatment. The tribunal has also awarded Rs.50,000/- against pain, shock and suffering as well as Rs.50,000/- against loss of amenities of life. It has also awarded Rs.4,53,600/- against the head of loss of future income due to disability taking the functional disability of the claimant due to injury sustained by him in the accident to the extent of 70%.

44. As regards the assessment of income of the claimant is concerned, though the claimant in his oral testimony has stated that he was earning

Rs.5,000/- per month, however, no supporting evidence has been adduced to corroborate the aforesaid fact. Hence, the Tribunal has, by a guesswork, regarded the monthly income of the claimant at Rs.3,000/-. This court, in absence of any cogent evidence on record as regards the income of the claimant, does not find it appropriate to interfere in the finding of the Tribunal in that regard.

45. After carefully considering the quantum of compensation computed against each of the aforementioned heads by the Motor Accident Claims Tribunal, this court is of considered opinion that same cannot be regarded as unjust. However, it appears that the claimant's right hand was amputated and no compensation was awarded to enable him to use prosthetic limb, which is in the considered opinion of this court is necessary. The purpose of granting fair compensation is to restore the injured person to the position in which he was prior to the accident as best as possible. Hence, this court is of considered opinion that an amount on lump sum basis was required to be awarded as compensation for enabling the claimant to procure and use prosthetic hand. As such, this court awards Rs.2,00,000/- more to the claimant for enabling him to procure prosthetic hand, which may be used to in aid of his amputated right limb.

46. In view of the discussions made in the foregoing paragraphs and reasons stated herein above, the impugned judgment and award is modified to the extent of adding Rs.2,00,000/- more to the already awarded compensation to enable the claimant to procure prosthetic limb to be used in place of his amputated right hand.

47. Accordingly, the MAC Appeal No. 488/2017 filed by the United India Insurance Company Limited is hereby dismissed. Whereas, the MAC Appeal No. 708/2018 is partly allowed to the extent as indicated herein above.

48. Send back the records of MAC Case No. 2284/2008 to the Motor Accident Claims Tribunal No. 1, Kamrup, Guwahati immediately with a copy of this judgment.

49. The statutory deposit deposited by the Insurance Company/appellant may be returned back after proper verification.

50. Both the aforementioned appeals are accordingly disposed of.

Abhishek Prem

Digitally signed by Abhishek Prem
Date: 2026.03.23 17:00:25 +05'30'

JUDGE

Comparing Assistant