GAHC010177482019

2026:GAU-AS:5708

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

Case No. : MACApp./515/2019

MR. PREMITH MOMIN AND ANR
S/O LT. MOHON SANGMA, R/O VILL. RAPDIKGRE, P.S. WILLIAMNAGAR, DIST. EAST GARO HILLS, MEGHALAYA, PIN-794111

2: NORI SANGMA
W/O MR PREMITH MOMIN
R/O VILL. RAPDIKGRE
P.S. WILLIAMNAGAR
DIST. EAST GARO HILLS
MEGHALAYA
PIN-79411

VERSUS

THE ORIENTAL INSURANCE CO. LTD AND 2 ORS
REP. BY THE REGIONAL MANAGER, ULUBARI, GUWAHATI-7, DIST. KAMRUP (M), ASSAM.(INSURER OF OFFENDING VEHICLE)

2:MOYNUL HOQUE
S/O HASMAT ALI
VILL. RONGESWARI
P.O. AND P.S. NAGARBERA
DIST. KAMRUP (RURAL)
ASSAM
PIN-781127

3:SADIKUL ISLAM
S/O LT. ABDUL JALIL
VILL. JHORABARI
P.O. AND P.S. KRISHNAI
DIST. GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. A MANNAF, MS J BEGUM

Advocate for the Respondent : MS. R D MOZUMDAR, MR. S P SHARMA,MS. C MOZUMDAR

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Advocates for the Appellants : Mr. A. Mannaf

Advocate for the respondents : Mrs. R.D. Mozumdar

Date on which judgment is reserved : N/A

Date of pronouncement of judgment : **23.04.2026**

Whether the pronouncement is of the operative part of the judgment : N/A

Whether the full judgment has been pronounced : Yes

JUDGMENT AND ORDER (ORAL)

(S.P. Khaund, J)

Heard learned counsel Mr. A. Mannaf for the appellants Premith Momin and Mrs. Nori Sangma, who have filed this appeal as they are aggrieved by the Judgment and Award dated 08.05.2019 passed by the learned Member, MACT, Goalpara in MAC Case No. 41/2017. They are aggrieved by the quantum of compensation which was assessed at Rs. 5,64,800/-.

2. Heard learned counsel Ms. R.D. Mozumdar for the respondent No.1 Oriental Insurance

Company Limited.

3. The appellants are the parents of the deceased, Witter Sangma, who met with an accident on 23.12.2016. At about 8:30 a.m., Witter was chatting with his two friends beside a Vespa scooter parked on the side of 51 National Highway. At that time, a speeding vehicle (Winger STD) model bearing registration No.ML-13-3310 in a rash and negligent manner hit them, and Witter, along with his friends, sustained fatal injuries. The people nearby gathered at the spot and brought Witter Sangma to Meselkhuwa, PHC for treatment, but unfortunately he succumbed to his injuries. An FIR regarding this incident was lodged by Bargish Sangma, which was registered as Krishnai P.S. Case No.1/2017 (G.R. No.01/ 2017) under Section 279/304(A) of the Indian Penal Code ('IPC' for short).

4. The parents i.e. the appellants filed the MAC Case No. 41/2017 wherein the Oriental Insurance Company was arrayed as opposite party No.1 and the owner of the Winger as well as the driver were arrayed as opposite party Nos. 2 and 3. The opposite party No.1 contested the proceedings and filed written statement denying all the averments made in the claim petition. They have contended that the claimants have prayed for excessive compensation. They have questioned the age and occupation of the deceased. They have also questioned the validity of the insurance policy, as well as the driving license and other permits, and so on and so forth. The opposite party No.3 Md. Sahidul @ Sadikul Islam, the driver of the vehicle No.ML-13-3310 did not appear and contest the proceeding, whereas the opposite party No. 2, Moynul Hoque contested the proceeding and submitted his written statement admitting that he is the registered owner of the offending vehicle No.ML-13-3310 . He has prayed for exoneration as his vehicle was duly insured with policy No.322390/31/2017/2636 which was valid up to 10.08.2017 and this implies that the policy was valid at the time of the accident, which occurred on 23.12.2016.

5. The claimants adduced the evidence of one witness and proved certain documents. After scrutinizing the oral as well as documentary evidence, it was held by the Tribunal that

the vehicle bearing vehicle registration No.ML-13-3310 was the offending vehicle, and driver of the vehicle was responsible for the accident which resulted in the death of Witter Sangma.

6. On the submissions of the insurance company and the claimants at this appellate stage, the core issue narrows down to the income of the deceased.

7. The learned counsel for the claimants/ appellants laid stress in his argument that the evidence of PW-1 clearly reveals that the monthly income of the deceased was Rs.15,000/-. He has categorically stated in his evidence-on-chief that his son, Witter Sangma was 22 years of age and he used to earn Rs. 15,000/- per month, including commission and other perquisites, etc. as he was working as an employee under the "Trust Plastic Industry in Chennai" during his lifetime. The other issues are not discussed in this case as the issue which centres around in a narrow compass is relating to the income of the deceased submitted by the claimants through the claim petition as well as through the evidence-in-chief. It is also pertinent to mention that it is not necessary to get into details of the other evidence as the insurance company has not disputed the factum of the accident and the liability of the insurance company to pay the compensation. The insurance company has also not disputed that the vehicle No.ML-13-3310 is the offending vehicle. The argument of the insurance company is that the claimants have failed to prove the income of the deceased through proper documents.

8. The learned counsel for the insurance company has submitted that the deceased was an employee in a company and he ought to have proved his income through proper documentary evidence. It was incumbent on the claimants to have proved income of the deceased through proper documentary evidence and the claimants have failed to prove the same.

9. It is submitted by the learned counsel for the appellants that no income certificate was

produced but the claimant was in fact, earning Rs.15,000/- per month. He has relied on the decision of the Supreme Court in the case of ***Syed Sadiq vs. United Insurance Company Ltd.*** reported in (2014) 2 SCC 735 wherein it has been held at paragraph 8 and 9 as quoted hereunder:

> "*8. The appellant/claimant in his appeal further claimed that he had been earning 10,000/- p.m. by doing vegetable vending work. The High Court however, considered the loss of income at 3500/- p.m. considering that the claimant did not produce any document to establish his loss of income. It is difficult for us to convince ourselves as to how a labour involved in an unorganized sector doing his own business is expected to produce documents to prove his monthly income. In this regard, this Court, in the case of Ramchandrappa v. Manager, Royal Sundaram Alliance Company Limited[2], has held as under:*
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> "*13. In the instant case, it is not in dispute that the Appellant was aged about 35 years and was working as a Coolie and was earning 4500/- per month at the time of accident. This claim is reduced by the Tribunal to a sum of 3000/- only on the assumption that wages of the labourer during the relevant period viz. in the year 2004, was 100/- per day. This assumption in our view has no basis. Before the Tribunal, though Insurance Company was served, it did not choose to appear before the Court nor did it repudiated the claim of the claimant. Therefore, there was no reason for the Tribunal to have reduced the claim of the claimant and determined the monthly earning a sum of 3000/- p.m. Secondly, the Appellant was working as a Coolie and therefore, we cannot expect him to produce any documentary evidence to substantiate his claim. In the absence of any other evidence contrary to the claim made by the claimant, in our view, in the facts of the present case, the Tribunal should have accepted the claim of the claimant.*
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> *14. We hasten to add that in all cases and in all circumstances, the Tribunal need not accept the claim of the claimant in the absence of supporting material. It depends on the facts of each case. In a given case, if the claim made is so*

exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time. In the present case, Appellant was working as a Coolie and in and around the date of the accident, the wage of the labourer was between 100/- to 150/- per day or 4500/- per month. In our view, the claim was honest and bonafide and, therefore, there was no reason for the Tribunal to have reduced the monthly earning of the Appellant from 4500/- to 3000/- per month. We, therefore, accept his statement that his monthly earning was 4500/-.

9. There is no reason, in the instant case for the Tribunal and the High Court to ask for evidence of monthly income of the appellant/claimant. On the other hand, going by the present state of economy and the rising prices in agricultural products, we are inclined to believe that a vegetable vendor is reasonably capable of earning 6,500/- per month."

6. I have scrutinized the evidence of the appellant Premith Momin who has stated that his son was earning Rs. 15,000/- per month. He has also exhibited Exhibit 1, which is the FIR of Krishnai P.S. Case No.1/2017, Exhibit 2 is the Charge sheet of the same case, Exhibit- 3 and 4 are the seizure lists, Exhibit- 5 and 6 are the MVI reports and Exhibit-7 is the PM report. He has exhibited several documents, but he has failed to exhibit any document to substantiate that his son was earning Rs.15,000/- per month.

7. The Tribunal had assessed that as there was no proof of income of the deceased, it would be justifiable to assess the income of the deceased at Rs. 3,500/- per month, despite the fact that no convincing evidence was adduced by the claimants to prove the income of the deceased.

8. Reverting back to this case, it is held that going by the present state of economy and

the rising inflation, the income of any laborer working in any industry, be it plastic industry, will be well above Rs.3,500/- per month. Thereby, in the light of the decision of the Hon'ble Supreme Court in Sayed Sadiq (supra), it is held that the income of the deceased was Rs. 5000/- per month.

9. It is thereby held that the annual income of the deceased would be :

Rs.60,000/-

50% is deducted on account of personal and living expenses of the deceased which reduces the annual income of the deceased to :

Rs.30,000/-

The multiplier of 17 is added and the loss of dependency amounts to :

Rs.5,10,000/-

Loss of dependency -------------------------Rs.5,10,000/-

Future prospects: 40% of Rs.5,10,000/= Rs. 2,04,000/-

Funeral Expenses ----------------------------Rs.15,000/-

Loss of Estate --------------------------------Rs.10,000/-

Loss of love & affection----------------------Rs.15,000/-

Pain, shock & suffering----------------------Rs.25,000/-

Total Rs.7, 79,000/- (Seven Lacs Seventy Nine Thousand) only.

10. In view of the foregoing discussions, the Judgment and Award dated 08.05.2019 in connection with MAC Appeal No.41/2017 is hereby modified. The insurance company is directed to pay Rs.7,79,000/- (Seven Lacs Seventy Nine Thousand) only along with interest @ 6% from the date of filing of the petition till realization, barring interest on future prospects. Thereafter, the insurance company is directed to enhance the above quantified amount on

the conventional heads @ 10% after a span of every 3 years in the light of the decision of the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. vs- Pranay Sethi*** [(SPL No.25590/2014) (Civil Appeal No.6961/2015)] reported in (2017) 16 SCC 680.

11. In terms of the above observations, this MAC Appeal stands disposed of.

12. Send back the original records of the Tribunal.

JUDGE

Comparing Assistant