

GAHC010219992012



2025:GAU-AS:11596

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

Case No. : MACApp./214/2012

TARINI DEVI
W/O LATE HARESWAR SARMA, VILL. PATACHARKUCHI, P.O.
PATACHARKUCHI, DIST. BARPETA, ASSAM.

VERSUS

THE REGIONAL MANAGER,
NATIONAL INSURANCE CO. LTD., BHANGARAGH, GUWAHATI-5, DIST.
KAMRUP, ASSAM.

2:THE REGIONAL MANAGER

M/S NATIONAL INSURANCE CO. LTD. BHANGAGARH
GUWAHATI-

Advocate for the Petitioner : MR.S DAS,

Advocate for the Respondent : MR.R GOSWAMI

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

Date of hearing : 28.08.2025

Date of Judgment : 29.08.2025

JUDGMENT & ORDER (CAV)

Heard Mr. S. Das, learned counsel for the appellant. Also heard Mr. R. Goswami, learned counsel for the respondent.

2. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed by the appellant challenging the judgment and award dated 28.06.2004, passed by the learned Member, Motor Accidents Claims Tribunal, Kamrup, Guwahati, in MAC Case No. 1658/03 (1195/03), whereby the learned Tribunal awarded a sum of Rs. 9,215/- (Rupees nine thousand two hundred fifteen only) with interest @ 9% per annum from the date of filing of the claim petition till realization.

3. The brief facts leading to the filing of this appeal is that; on 24.05.2003 at about 2:45 P.M., the appellant's husband (deceased), namely Lt. Hareswar Sarma, met with an accident near Patacharkuchi Bazar when he was hit by a Tata Mobile Van bearing Registration No. AS-04-A-1947. The deceased sustained head and facial injuries due to the said accident. He remained in the hospital from 24.05.2003 to 17.06.2003 and ultimately succumbed to his injuries on 16.07.2003, i.e., 58 days after the accident.

3.1. The learned Tribunal, while holding that the deceased had suffered injuries in the accident, restricted the compensation amount to Rs. 9,215/- (Rupees nine thousand two hundred fifteen only), covering medical bills and transportation

charges. The learned Tribunal, relying on the Post-Mortem Report, held that the death of the deceased was not due to the accident.

4. Being highly aggrieved, the claimant/appellant filed the present appeal seeking enhancement of compensation under different heads, including pain and suffering, medical expenses, loss of amenities, and loss of dependency.

5. The incident took place in the year 2003, the judgment was passed in 2004, and the appeal was filed in 2012. Since then, the appeal has remained pending for nearly 13 years. When the matter was taken up, it was found that the medical documents confirmed that the deceased had been hospitalized for about 25 days following head and facial injuries caused by the accident. The Post-Mortem Report revealed healed injuries and malnutrition/starvation as the immediate cause of death.

6. The parties did not dispute that, in motor accident claims, a liberal view must be taken. When a person in normal health sustains injuries leading to hospitalization and a subsequent deterioration of health culminating in death within a short span as in this case, within 58 days, the nexus with the accident cannot be brushed aside merely because the final cause of death is recorded as circulatory failure. Hence, there is no dispute that the death was a consequence of the accident.

7. In view of the above consensual agreement, the learned counsel for the parties submitted that, in order to settle this long-pending dispute once and for all, the parties have arrived at a settlement. It is agreed that the appellant/claimant shall be entitled to compensation under the following heads, calculated by the parties and reproduced herein below:

Compensation calculation

Monthly income of the deceased : Rs. 4,000/- (Grocery shop)

Annual Income : Rs. 48,000/- (4000x12)

Add 15% (future prospect) : Rs. 48,000 + 15%

Rs. 55,200/-

Deduction 1/3 : Rs. 55,200 – 1/3

Rs. 36,800/-

Age factor

(Deceased was in the age group : 9

of 51-55)

Loss of Dependency : Rs. 36,800 x 9

: Rs.3,31,200/-

Funeral expenses : Rs. 15,000/-

Loss of estate : Rs. 15,000/-

Spousal Consortium : Rs. 40,000/-

Transportation of body : Rs. 5,000/-

of the deceased

Medical Expenditure : Rs. 50,000/-

Total : Rs.4,56,200/-

8. The above calculation of the compensation of Rs. 4,56,200/- (Rupees four lakhs fifty-six thousand two hundred only) is just and reasonable, and shall be payable by the respondent/Insurance Company to the appellant/claimant. It is further agreed that the awarded amount shall carry interest @ 9% per annum from 24.08.2022, i.e., from the date of admission of the appeal before this Court, until realization.

9. In view of the submissions made by the parties and taking into account the facts and circumstances of the case, the appeal is disposed of in terms of the

agreement (the copy of calculation is kept on record and marked as Document 'X').

10. Accordingly, the respondent/Insurance Company is directed to deposit the agreed compensation along with accrued interest before the Registry of this Court within 60 (sixty) days from today. Upon deposit of the said amount, the claimant/appellant will be at liberty to withdraw the same upon proper verification and identification by the counsel concerned.

11. As a result, the impugned award dated 28.06.2004 stands modified accordingly.

12. In terms of the above, this appeal stands disposed of.

13. In terms of above, this appeal stands disposed of.

JUDGE

Comparing Assistant