



GAHC010193072020



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

Case No. : MACApp./1/2021

NEW INDIA ASSURANCE COMPANY LTD.
HAVING ITS REGISTERED AND HEAD OFFICE AT NEW INDIA ASSURANCE
BUILDING, 87, MAHATMA GANDHI ROAD, FORT, MUMBAI- 400001 AND
REGIONAL OFFICE AT G.S. ROAD, GUWAHATI-5, REP. BY THE CHIEF
REGIONAL MANAGER.

VERSUS

MUSSTT. NURJAHAN BEGUM LASKAR AND 6 ORS.
W/O- LATE FAKAR UDDIN LASKAR, R/O- VILL.- BIDRUIPAR, P.O.
HATIKHAL BAZAR, P.O. KACHUDARAM, DIST.- CACHAR, ASSAM.

2:MD. FERDOUS AMIN LASKAR
R/O- VILL.- BIDRUIPAR
P.O. HATIKHAL BAZAR
P.O. KACHUDARAM
DIST.- CACHAR
ASSAM.

3:MISS MAZUMA BEGUM LASKAR
R/O- VILL.- BIDRUIPAR
P.O. HATIKHAL BAZAR
P.O. KACHUDARAM
DIST.- CACHAR
ASSAM.

4:MD. AZAD HUSSAIN LASKAR
R/O- VILL.- BIDRUIPAR
P.O. HATIKHAL BAZAR
P.O. KACHUDARAM
DIST.- CACHAR



ASSAM.

5:MD. SAJJAD HUSSAIN LASKAR
R/O- VILL.- BIDRUIPAR
P.O. HATIKHAL BAZAR
P.O. KACHUDARAM
DIST.- CACHAR
ASSAM.

6:MD. ABDULLA CHOUDHURY
S/O- TAYAB ALI
R/O- VILL.- KHAYRABAD FOREST VILLAGE
P.O. AND P.S. JIRIGHAT
DIST.- CACHAR
ASSAM.

7:MD. BABAREL CHOUDHURY
S/O- JAMAL UDDIN
R/O- VILL. NEW KHAYRABAD
P.O. AND P.S. JIRIGHAT
DIST.- CACHAR
ASSAM

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

JUDGMENT & ORDER

Advocates for the petitioner : Shri S. Dutta, Sr. Advocate
Ms. M. Choudhury, Advocate.

Advocate for respondents : Shri M. Choudhury, Advocate.

Date of hearing : 21.06.2024

Date of judgment : 21.06.2024



The instant appeal has been preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 17.02.2020 passed by the learned MACT, Cachar in MAC Case No. 50/2016. The appellant is the Insurance Company. By the impugned judgment, the learned Tribunal has awarded an amount of Rs.24,32,500/- (Rupees Twenty Four Lakh Thirty Two Thousand Five Hundred) along with interest @ of 7% per annum.

2. I have heard Shri S. Dutta, learned Senior Counsel for the appellant assisted by Ms. M. Choudhury, learned counsel. I have also heard Shri M. Choudhury, learned counsel for the respondents– claimants.

3. The claim was for the death of one Fakar Uddin Laskar in a road traffic accident occurring on 16.09.2015 in the district of Cachar.

4. Shri Dutta, the learned Senior Counsel has submitted that the present appeal has been preferred on the following two basic grounds. Firstly, it is contended that the learned Tribunal fell into error in considering the monthly salary of the deceased to be Rs.15,000/- (Rupees Fifteen Thousand) instead of Rs.14,000/- (Rupees Fourteen Thousand). Secondly, it is contended that interest was directed to be paid on future prospect also. It is argued that no interest is payable on the future prospect.

5. Shri Choudhury, the learned counsel for the claimants fairly submits that the findings of the learned Tribunal on the aforesaid two aspects may not be construed to be in strict compliance of the settled law. He however submits that the compensation directed to be paid is on the account of death of an incumbent and therefore, a liberal interpretation is necessary taking into consideration the objective of the enactment.



6. The aforesaid two grounds of appeal have been examined and it is found that the approach of the learned Tribunal in accepting the monthly income of the deceased as Rs.15,000/- (Rupees Fifteen Thousand) does not appear to be substantiated by the records of the case and as per the materials available, the monthly income of the deceased appears to be Rs.14,000/- (Rupees Fourteen Thousand). Further, the learned Tribunal appears to have granted interest on future prospect which is not admissible under the existing law. This Court is therefore of the considered opinion that without going deep into the case and the other aspects, the impugned judgment and order dated 17.02.2002 passed by the learned MACT, Cachar requires an interference which is accordingly done.

7. Therefore, taking the assistance of the learned counsel for the contesting parties, the compensation payable would be in the following manner:-

(i) **Annual salary**

$$\text{Rs. 14,000/-} \times 12 = \text{Rs. 1,68,000/-}$$

$$\text{Deduction (}\frac{1}{4}\text{ of Rs. 1,68,000/-)} = \text{Rs. 42,000/-}$$

Rs. 1,26,000/-

(ii) **Future Prospect**

$$25\% \text{ of Rs. 1,26,000/-} = \text{Rs.31,500/-}$$

(iii) **Compensation payable with the Multiplier as 14**

$$(\text{Rs. 1,26,000/-} \times 14) + (\text{Rs. 31,500} \times 14)$$

$$\text{Rs.17,64,000/-}(\text{interest bearing}) + \text{Rs.4,41,000/-}(\text{non-interest bearing})$$

$$\text{Total amount : Rs. 22,05,000/-}$$



- 8.** It is clarified that the rate of interest granted by the learned Tribunal of 7% would however remain intact. As indicated above, out of the aforesaid amount, only the amount of Rs. 4,41,000/- (Rupees Four Lakh Forty One Thousand) being on the Head of Future Prospect will not bear interest. However, interest would accrue on the amount of Rs.17,64,000/- (Rupees Seventeen Lakh Sixty Four Thousand).
- 9.** Appeal is accordingly allowed and the impugned award stands modified in the manner indicated above.
- 10.** The statutory deposit of Rs. 25,000/- in connection with MAC Appeal 1/2021 is to be refunded to the Insurance Company (New India Assurance Company Ltd.).

JUDGE

Comparing Assistant