

# THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Appellate Jurisdiction)

DATED : 9<sup>th</sup> March, 2023

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**SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**

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MAC App. No.01 of 2021

**Appellants** : The Branch Manager,  
The New India Assurance Co. Ltd. and Another

**versus**

**Respondents** : Sachin Darjee and Others

Appeal under Section 173 of the Motor Vehicles Act, 1988.

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**Appearance**

Ms. Navtara Sarada, Advocate for the Appellants.

Mr. S. S. Hamal, Senior Advocate with Mr. Tashi Wongdi Bhutia, Mr. Mahesh Subba and Mr. Pradeep Sharma, Advocates for Respondent No.1.

Mr. Sunil Baraily, Advocate for the Respondents No.2.

Ms. Bhawana Chhetri, Advocate for the Respondent No.3.

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## J U D G M E N T ( O R A L )

Meenakshi Madan Rai, J.

**1.** The lone ground of challenge on which the Appeal pivots pertains to the monthly income of the victim placed at ₹9,000/-(Rupees nine thousand) only, by the Claimants-Respondents and denied by the Appellants.

**2.** The accident occurred at Dogra MT Army Camp area, Lachung, North Sikkim, on 21-11-2017, at 2030 hours, when the victim employed as a site supervisor by C.W.3, Mr. Salvarious Sanjog Chettri, was standing behind a bus which was being reversed by the driver. The victim came to be crushed between the reversing bus and the Army vehicle which was standing at the parking area. He was immediately evacuated to the Medical Inspection (MI) room for treatment but was unfortunately declared "brought dead".

**3.** It is contended by Learned Counsel for the Appellants, that the Claimants-Respondents have failed to establish that the victim was earning a sum of ₹9,000/- (Rupees nine thousand) only, per month, during the relevant time, towards which she relies on the cross-examination of the Claimant No.2 by the Opposite Party Nos.1 and 2 (Appellants herein) and the cross-examination of the Witness No.3 for the Claimants by the Opposite Party Nos.1 and 2. That, consequently the compensation awarded by the Learned Tribunal is inflated and erroneous. Learned Counsel concedes that there are no other grounds for assailing the Judgment and Award of the Learned Motor Accidents Claims Tribunal.

**4.** Learned Senior Counsel for the Respondent No.1, on the other hand, refuting the arguments of Learned Counsel for the Appellants submitted that the cross-examination pointed out by the Learned Counsel for the Appellants does not demolish the fact that the deceased was paid ₹9,000/- (Rupees nine thousand) only, per month, by the said C.W.3, his employer, nor does the cross-examination of C.W.3 himself demolish this fact. Hence, no error arises in the Judgment and Award of the Learned Motor Accidents Claims Tribunal, which thereby requires no interference.

**5.** Learned Counsel for the Respondent Nos.2 and 3 had no independent submissions to make and endorse the submissions put forth by Learned Senior Counsel for the Respondent No.1.

**6(i).** Having considered the submissions of Learned Counsel for the parties and carefully perused the records including the evidence pointed to and relied on by Learned Counsel for the Appellants, it is evident therein that the fact that the victim was earning ₹9,000/- (Rupees nine thousand) only, per month, at the relevant time has not been demolished by cross-examination of the

witnesses. Exhibit 2 lends further credence to the claim of the Respondent No.1 that the victim was paid ₹9,000/- (Rupees nine thousand) only, per month. Consequently, it concludes that victim was earning ₹9,000/- (Rupees nine thousand) only, per month, at the time of accident.

**(ii)** On such conclusion, in my considered opinion the Judgment and Award of the Learned Motor Accidents Claims Tribunal warrants no interference.

**(iii)** Accordingly as Ordered by the Learned Motor Accidents Claims Tribunal, the Appellants [Insurance Company] shall pay a sum of ₹14,30,800/- (Rupees fourteen lakhs thirty thousand and eight hundred) only, as total compensation to the Claimants. The entire amount shall be paid within a period of one month from today with interest @ 9% per annum, failing which the Appellants shall pay simple interest @ 10% per annum, from the date of filing of the Claim Petition i.e., 01-06-2018, till full realisation, duly deducting the amounts, if any, already paid by the Appellants [Insurance Company] to the Claimants-Respondents.

**7.** Appeal is dismissed and disposed of accordingly.

**8.** Copy of this Judgment be forwarded to the Learned Tribunal for information, along with its records, if any.

**9.** Pending Applications, if any, stand disposed of.

**( Meenakshi Madan Rai )**

**Judge**  
09-03-2023

Approved for reporting : **Yes**