THE HIGH COURT OF SIKKIM: GANGTOK

(Civil Appellate Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

MAC Appeal No. 11 of 2025

The Branch Manager,
National Insurance Company Limited,
Division Office at National Highway-10,
Near Police Headquarters,
P.O. & P.S. Gangtok, Sikkim-737101.

(Insurer of vehicle bearing registration No.Sk-01-PB-4075)

..... Appellant

Versus

1. Susmita Gurung,
Daughter of late Shyam Gurung,
Resident of 6th Mile, Tadong,
P.O. Tadong, P.S. Gangtok,
Sikkim-737134.

2. Bhanu Bhakta Jogi,
Son of late Krishna Bdr. Jogi,
Resident of Lower Suntaley, Sadam,
P.O. Sadam, P.S. Melli,
District Namchi, Sikkim-737128.

(Insurer/owner of Hyundai i10 Asta car bearing registration no.Sk-01-PB-4075).

.....Respondents

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

(Impugned judgment and award dated 30.10.2024 passed by the learned Member, Motor Accident Claims Tribunal, Sikkim at Gangtok in MACT Case No.17 of 2024 directing the appellant to pay the respondent no.2 compensation to the tune of Rs.1,47,31,000/- only with interest @ 9% per annum from the date of filing of the claim petition i.e. 05.04.2024 until its full realization.

Appearance:

Mr. M. N. Dhungel, Advocate for the Appellant.

Mr. K. B. Chhetri, Legal Aid Counsel for the Respondent no.1.

Ms. Sabina Gurung, Legal Aid Counsel for the Respondent No.2.

Date of Hearing : 15.10.2025
Date of Judgment : 15.10.2025

J U D G M E N T

Bhaskar Raj Pradhan, J.

1. Heard the learned counsel for the Branch Manager, National Insurance Company Limited (the appellant). The only issue raised by the learned counsel is on the income certificate issued by the Sub Divisional Magistrate, Gangtok (SDM) (hereinafter the income certificate) (exhibit-8) which was issued on 21.02.2024 certifying that late Pabitra Rai who expired on 14.01.2024 used to earn a monthly income of Rs.1,12,700/-. The income certificate states that it was issued on the recommendation of the Counsellor vide Memo No.774/DC/GTK dated 21.02.2024.

2. The SDM who issued the income certificate was examined by the learned Tribunal on 08.10.2024. He stated that on 21.02.2024 he had received an application from the daughter of the deceased for issuance of income certificate of her late mother Pabitra Rai. He also deposed that she had submitted a recommendation of the Counsellor of Ward No.18, Lower Tadong, 6th Mile, Gangtok Municipal Corporation along with the trade license of Manihari, grocery and lottery shop along with an affidavit of declaration of income. According to the deponent on the basis of the above documents he issued the income certificate, certifying that late Pabitra Rai was earning a monthly income of Rs.1,12,700/-.

3. He further deposed that in the income certificate dated 21.02.2024 issued earlier there was an error on the total amount of income from grocery and Manihari and the figure of Rs.15000/- was written as 1500/- only. The deponent stated that when the applicant brought the said error before him he found that there was a typographical error in the said income certificate and that on 19.09.2024 he had issued the income certificate.

4. The deponent was cross-examined by the appellant. During his cross-examination, he denied the suggestion that he was not the authorized person to issue the income certificate. He also quite candidly admitted that he did not personally verify the income of the deceased but issued the income certificate based on the recommendation of the concerned Counsellor. The deponent denied the suggestion that the Counsellor's report is incorrect. He volunteered to state that if there was any doubt or objections it can be sent for re-verification. Although the deponent had volunteered for re-verification, the record does not reveal that the appellant had sought to re-verify the income certificate.

5. The income certificate has been certified after due verification by the SDM who is a public authority and it is relevant.

6. In matters relating to Motor Accident Claims the evidence of the SDM along with the income certificate would be sufficient to determine the income as has been correctly done by the learned Tribunal.

7. The impugned judgment is a reasoned judgment. It has recorded the rival submissions of the learned counsel for the parties. It has also examined the records exhibited, analysed and rendered an opinion awarding a sum of Rs.1,47,31,000/- to the claimant as compensation along with interest at 9% per annum effective from the date of filing of the application (i.e. 05.04.2024) until its full realization.

8. The learned Tribunal has held that the First Information Report (FIR) (exhibit-2) reveals that the accident was reported at Nagrakata P.S. by S.I. Binod

Subba on the same day. The contents of the FIR reflected that the accident vehicle was driven by the respondent no.2 at a high speed due to which he lost control of the vehicle which turned turtle. A case was registered under sections 279, 337, 338, 304A and 427 of the Indian Penal Code, 1860 against the respondent no.2. Charge-sheet (exhibit-17) for over-speeding and driving in a rash and negligent manner was filed. The learned Tribunal was satisfied that the evidence led sufficiently proved rash and negligence on the part of the driver. The learned Tribunal was also of the view that the vehicle involved in the case was the accident vehicle (SK-01-PB-4075); the death certificate (exhibit-6) reflected that the deceased had died on 14.01.2024 and the post-mortem report (exhibit-5) showed that the cause of death was due to injury sustained in road traffic accident. The learned Tribunal was also satisfied that the documents of the accident vehicle including the driving license of the driver were valid. The learned Tribunal concluded that the deceased was 47 years old at the time of the accident and was also satisfied with the income certificate, although the monthly turnover from the business of the deceased had not been filed. It was held that the income certificate issued by the SDM akin to a Block Development Officer (BDO) is a valid proof of income and can be safely relied upon. The learned Tribunal concluded that it had no reason to doubt that the deceased could earn Rs.1,12,700/- per month. Accordingly, it calculated the loss of earning/dependency, loss of estate, funeral expenses, cost of transportation and non-pecuniary damages. As per the calculation of compensation by the learned Tribunal the claimant was entitled to a total of Rs.1,47,31,000/- which was awarded along with interest at 9% per annum.

9. The learned counsel for the Insurance Company raises no other grounds. The learned counsel for the claimant/respondent no.1 as well as respondent no.2 is satisfied with the compensation awarded by the learned Tribunal.

10. This Court is of the view that the sole ground canvassed by the learned counsel for the appellant does not permit this Court to overturn the verdict and compensation granted by the learned Tribunal. It is accordingly upheld. The appeal is dismissed.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**
Internet : **Yes**

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