

**THE HIGH COURT OF SIKKIM : GANGTOK**

(Civil Appellate Jurisdiction)

DATED : 2nd August, 2024

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

MAC App. No.16 of 2024

Appellants : The Branch Manager, National Insurance Company Limited and Another**versus****Respondents** : Pemba Tshering Bhutia and Others

Appeal under Section 173 of the Motor Vehicles Act, 1988

Appearance

Mr. Thupden Gyatso Bhutia, Advocate for the Appellants.


Mr. Rahul Rathi and Ms. Lidya Pradhan, Advocates for the Respondents No.1 and 2.

None present for the Respondents No.3 and 4.

JUDGMENT(ORAL)Meenakshi Madan Rai, J.

1. The Appeal was filed on the ground that the compensation was granted by the Learned Motor Accidents Claims Tribunal (hereinafter, the "MACT"), Gangtok, Sikkim, vide its Judgment dated 22-12-2023, in MACT Case No.22 of 2020, *Pemba Tshering Bhutia and Another vs. The Branch Manager, National Insurance Company Limited and Others*, despite the driving licence not having been exhibited by the Claimants No.1 and 2, the Respondents No.1 and 2 herein.

2. Before this Court today, it is conceded by Learned Counsel for the Appellants-Company that they have no objection to the impugned Judgment of the Learned MACT, save to the extent that while computing the total compensation in favour of the Respondents No.1 and 2/Claimants, an additional sum of ₹



5,00,000/-(Rupees five lakhs) only, has been granted under the head of "loss of longevity of life". That, this head finds no place in the Judgments of the Hon'ble Supreme Court or in the Motor Vehicles Act, 1988 (hereinafter, the "MV Act"), itself. That, this amount may be deducted from the computation of the compensation, pursuant to which the Appellants are willing to deposit the sum of ₹ 27,98,000/-(Rupees twenty seven lakhs and ninety eight thousand) only, to the Respondents No.1 and 2 as compensation, along with the interest @ 10% as directed by the Learned MACT.

3. Learned Counsel for the Respondents No.1 and 2 concedes that, although an amount of ₹ 5,00,000/-(Rupees five lakhs) only, was sought for "loss of longevity of life" by the Claimants No.1 and 2/Respondents No.1 and 2, however as none of the Supreme Court Judgments have granted compensation under such head, nor does the MV Act contain such a provision when the accident results in death, he has no objection, if the amount is deducted from the compensation amount awarded by the Learned MACT which would then stand reduced to an amount of ₹ 27,98,000/-(Rupees twenty seven lakhs and ninety eight thousand) only.

4. None appears for the Respondents No.3 and 4.

5. The Claimants No.1 and 2, the Respondents No.1 and 2 herein are the parents of the deceased Karma Tashi Bhutia, who while riding his motorcycle was hit from behind by a vehicle Tata Sumo, on 25-03-2019, at around 04.05 p.m., at Kalijhora, Sevoke, West Bengal. On impact, the motorcycle fell on the road and the motorcyclist succumbed to his injuries. The Claim Petition under

Section 166 of the MV Act came to be filed by the Respondents No.1 and 2 on account of the demise of their son, seeking compensation of ₹ 36,35,000/-(Rupees thirty six lakhs and thirty five thousand) only, of which the Learned MACT granted a sum of ₹ 32,98,000/-(Rupees thirty two lakhs and ninety eight thousand) only.

6. Having given due consideration to the submissions put forth by Learned Counsel for the parties and considering that no Supreme Court Judgments allude to compensation under the head of "loss of longevity of life" in case of demise in a motor vehicle accident, nor does the MV Act itself contain such a provision, the compensation of ₹ 5,00,000/-(Rupees five lakhs) only, granted by the Learned MACT under such head is set aside.

(i) The rest of the Judgment of the Learned MACT is upheld.

(ii) A total compensation of ₹ 27,98,000/-(Rupees twenty seven lakhs and ninety eight thousand) only, along with interest @ 10% per annum be paid to the Respondents No.1 and 2, by the Appellants-Company, within a period of 31 days' from today, failing which the rate of interest shall be computed @ 12% per annum, from the date of filing of the Claim Petition i.e., 18-08-2020.

7. Appeal partly allowed and disposed of.

8. Pending applications, if any, also stand disposed of.

9. Copy of this Judgment be forwarded to the Learned MACT for information along with its records.

(Meenakshi Madan Rai)
Judge

02-08-2024

Approved for reporting : **Yes**