

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Jurisdiction)

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

Review Petition No. 01 of 2026

Dhanesh Gupta alias Dhanesh Kumar Gupta,
Aged about 44 years,
Resident of Majhigoan East MW,
Housing Colony, Jorethang, Nagar Panchayat,
Naya Bazar, District Namchi, Sikkim
Pin No.737 128.

..... Petitioner

Versus

1. The Divisional Manager,
National Insurance Company Limited,
NH-10, Gangtok,
P.O. & P.S. Gangtok,
Pin No:737 101.
2. The Branch Manager,
National Insurance Company Limited,
Having Office at Damber Chowk, Reshi Road,
Kalimpong, District: Darjeeling,
Pin No. 734 301.
..... Respondents/Insurer
3. Shri Norbu Tshering Bhutia,
Son of Late Phuchung Bhutia,
Resident of Jorethang, SNT Colony,
P.O. & P.S. Jorethang,
District: Namchi,
Pin No. 737128.
.....Respondent/Owner

**Review Petition under Order 47 Rule 1 Read with
Section 151 of the Code of Civil Procedure, 1908.**

{Impugned judgment dated 16.09.2025 passed by Hon'ble High Court of Sikkim in Mac App No.03 of 2025 directing the Appellant therein/Respondent Nos.1 and 2 herein to pay Rs.27,83,390/- only as compensation to the Petitioner}.

Appearance:

Mr. Rahul Rathi and Ms. Khushboo Rahi, Advocates for the Petitioner.

Mr. Madan Kumar Sundas, Advocate for the Respondent Nos. 1 & 2.

None for Respondent No.3.

Date of Hearing	:	15.04.2026
Date of Judgment	:	15.04.2026
Date of uploading	:	15.04.2026

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

Bhaskar Raj Pradhan, J.

1. Delay condoned.
2. The learned counsel for the petitioner submits that the present review petition is limited to the failure of this Court to consider grant of the interest on the claim of the petitioner under the Motor Vehicles Act, 1988 (the M.V. Act).
3. It is pointed out that although the learned Tribunal had granted interest @10% per annum on the total sum of Rs.71,20,670/- from the date of filing of the claim petition i.e. w.e.f. 06.03.2021 till full and final payment the impugned judgment dated 16.09.2025 passed by this Court in appeal does not examine the interest component.
4. In appeal (at paragraph 44 of the impugned judgment) this Court re-computed “just compensation” to an amount of Rs.27,83,390/- only. These were for expenses relating to

treatment, hospitalisation, transportation, nourishing food and miscellaneous expenses; loss of earning during the period of treatment; loss of future earning, pain and suffering; loss of amenities; future medical expenses; attendant charges; extra nourishment and miscellaneous expenditure and cost of litigation.

5. In paragraph 9 of the impugned judgment the calculation of compensation by the learned Tribunal was reflected as Rs.71,20,670/- only which did not include the 10% interest granted.

6. It therefore appears that although 10% interest had been granted by the learned Tribunal this Court did not notice it. The learned counsel for the petitioner is therefore, right when it is submitted that while computing the total compensation grantable as just compensation this Court did not factor in the interest amount payable under section 171 of the M.V. Act. Since the learned Tribunal had granted 10% interest on the computed amount there is no apparent reason why the petitioner should not be granted the same in appeal.

7. I am therefore of the view that the present petition would squarely fall within the powers of review available to this Court. I am of the view that there has been a mistake and an error apparent on the face of the record in the

impugned judgment which needs to be corrected. Accordingly, the review petition is allowed. The petitioner is granted interest @ 10% from the date of making of the claim till actual payment on the amount of Rs.27,83,390/- only. The review petition stands disposed of.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**
Internet : **Yes**
to/