

# IN THE HIGH COURT OF SIKKIM

*MAC Appeal No.2 of 2003*

National Insurance Company Limited,  
Through its Branch Manager,  
Gangtok Branch, National Highway,  
Gangtok, East Sikkim. .... Appellant

Versus

1. Smt. Jitmaya Kharel,  
W/O Late Laxmi Kharel
2. Master Prayas Kharel,  
S/o Late Laxmi Kharel,  
Through his mother/natural guardian.
3. Shri Dayaram Kharel,  
S/o Devi Prasad Kharel,  
R/o Kharel Building,  
Sichey Busty, Gangtok,  
East Sikkim. .... Respondents.

*Coram :*

*The Hon'ble Mr. Justice Ripusudan Dayal, Chief Justice.*  
*The Hon'ble Mr. Justice N. Surjamani Singh, Judge.*

Present : Mr. A. K. Upadhyaya, Advocate for the appellant.

Mr. D. R. Thapa, Advocate for respondent Nos.1 & 2.

None for respondent No.3.

*Date of Decision : 10<sup>th</sup> March, 2003.*

## JUDGMENT

Dayal, CJ

Respondent Nos. 1 and 2 are the legal representatives of Laxmi Kharel who died in a motor accident. The learned member of the Motor Accident Claims Tribunal, East and North, Gangtok vide his impugned judgment dated 26.9.2002 has awarded compensation for a total amount of Rs.4,33,000/- after adjusting Rs.50,000/- which had earlier been paid as interim compensation, with interest @ 9% per annum from the date of filing of the petition. The learned Counsel for the appellant has disputed the award only on the ground that the Learned Tribunal applied the multiplier of 20, whereas according to the second schedule, for the age of 33 years when the death occurred, the multiplier should have

*R. Surjamani Singh*


been 17. There is merit in the submission. Learned Counsel for respondent Nos.1 and 2 does not oppose the submission.

2. Accordingly, the claimant is entitled to receive Rs. 2000 x 12 x 17, which comes to Rs.4,08,000/-. The learned Tribunal also awarded Rs.3000/- for funeral expenses. The total comes to Rs.4,11,000/-. The claimant, respondent Nos. 1 and 2 have already received a sum of Rs.50,000/- as interim relief. The balance which the appellant is liable to pay comes to Rs.3,61,000/-.

3. In the result, the appeal is allowed in part. The impugned award of the learned Tribunal is modified to the extent that amount of liability of the appellant Insurance Company is reduced to Rs.3,61,000/- (Rupees three lakh sixty one thousand) which shall be paid to respondent Nos. 1 and 2 within one month from today. The appellant shall also be liable to pay interest @ 9% on the said amount with effect from the date of the filing of the petition before the Tribunal till the date of payment. The sum of Rs.25,000/- deposited by the appellant in this appeal shall be refunded to the appellant.

The appeal thus stands disposed of.

  
( N. Surjamani Singh )  
Judge  
10.3.2003

  
10.3.2003  
( Ripusudan Dayal )  
Chief Justice  
10.3.2003