

IN THE HIGH COURT OF SIKKIM

MAC Appeal No.3 of 2003

New India Assurance Company Limited,
Through its Branch Manager,
Gangtok Branch, Gangtok,
East Sikkim. Appellant.

Versus

1. Smt. Shakila Bhujel,
W/o Late Durga Bhujel,
R/o 17th Mile, Kalimpong,
Distt.Darjeeling, West Bengal.
2. Miss Monika Bhujel,
3. Miss Manisha Bhujel,
4. Baby Neha Bhujel,
Daughters of Late Durga Bhujel,
Residents of 17th Mile,
Kalimpong, Distt.Darjeeling,
West Bengal.
through their mother/natural guardian,
the respondent No.1.
5. Shri R. L. Sharma (Khatiwada)
S/o Late Narad Khatiwada,
R/o Biring Busty,
P.O. Biring, P.S.Pakyong,
East Sikkim. Respondents.

Coram :

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

Present : Mr. A. K. Upadhyaya, Advocate for the appellant.
Mr. Basant Sharma, Advocate for respondent Nos.1 to 4.
Mr. Rajendra Upreti, Advocate for respondent No.5.

N. Surjamani Singh

Date of Decision : 10th March, 2003.

JUDGMENT

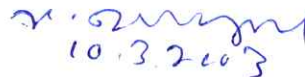
Dayal, CJ.

This appeal has been filed by the appellant Insurance Company to challenge the quantum of award made by the Motor Accident Claims Tribunal, East and North, Gangtok in MAC Appeal No.42 of 2001 awarding a total sum of Rs.4,30,000/- after adjusting the sum of Rs.50,000/- which had been earlier paid as interim relief in respect of the death of Durga Bhujel who had died in a motor accident. The learned Tribunal applied the multiplier of 20. The learned Counsel for the appellant submits that as per the second schedule, the multiplier should have been 16, the deceased having been aged 38 years at the time of the death. The learned Counsel for respondent Nos. 1 to 4 who are the legal heirs of Durga Bhujel, does not have any objection. There is no other point raised by the learned Counsel for the appellant in this appeal. Therefore, the award deserves to be modified to the extent that the amount of compensation is to be arrived at by applying the multiplier of 16. Accordingly, the amount of compensation comes to Rs.3,84,000/-. Respondent Nos. 1 to 4 are also entitled to Rs.2000/- for funeral expenses. Thus the total comes to Rs.3,86,000/-. From this amount, the sum of Rs.50,000/- which has already been received as interim compensation is to be deducted. Thus, the appellant is liable to pay a sum of Rs.3,36,000/-.

2 In the result, the appeal is allowed in part and the award passed by the learned Tribunal is modified to the extent that the appellant New India Assurance Company Ltd., shall pay only a sum of Rs.3,36,000/- to respondent Nos. 1 to 4 within one month from today. The appellant shall also be liable to pay interest @ 9% per annum on the said amount with effect from 5.10.2001 the date of filing the petition before the Tribunal till the date of the payment. The amount of Rs.25,000/- deposited by the appellant in this appeal be refunded to the appellant.



(N. Surjamani Singh)
Judge
10.3.2003



(Ripusudan Dayal)
Chief Justice
10.3.2003

at/