

**IN THE HIGH COURT OF SIKKIM
CIVIL APPELLATE JURISDICTION**

M.A.C. App. No. 25 OF 2015

The Branch Manager,
National Insurance Company Ltd.,
Gangtok Branch,
East Sikkim – 737 101.

----- Appellant.

-VERSUS-

1. Shri Pankaj Kumar Balabhai Kapadia,
S/o Late Balabhai Vadilal Kapadia,
2. Smt. Daxa Pankaj Kumar Kapadia,
W/o Shri Pankaj Kumar Balabhai Kapadia,
3. Shri Raj Ritesh Kapadia,
S/o Shri Raj Ritesh Balabhai Kapadia,
Petitioners are permanent resident of:
A – 7, Prerna Vihar Tower, Near Rose Wood Estate,
Opposite Gokul Awas, Jodhpur Village Road,
Jodhpur, Satellite, Ahamadabad,
State of Gujarat – 380 015.
4. Shri Krishna Prasad Giri,
S/o Late Bhim Lall Giri,
Presently residing at:
Tintek Busty, Near Block Development Office,
P. O. Rakdong & P. S. Gangtok, East Sikkim – 737 107.
(Owner of Mahindra & Mahindra
Max – Passenger Carriage Vehicle bearing
Registration No. SK – 01/J/0897) ----- Respondents.

PETITIONER
ADVOCATE (S)
FOR ----- Ms. Vidya Lama.

RESPONDENT
ADVOCATE (S)
FOR -----

Case No.....

Serial No.	Date	Order (s) with Signature (s)
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03.	04.04.16	MAC APP. No. 25/2015 BEFORE MR. JUSTICE S.K. SINHA, CJ. Present: Mrs. Vidya Lama, Advocate for the Appellant. Mr. Ajay Rathi and Ms Phurba Diki Sherpa, Advocates for Respondents 1, 2 and 3. Mr. Ashok Pradhan, Advocate for Respondent No. 4. ... Heard on admission. Admit. Also heard on IA No. 01/2016. This is an Application for grant of interim stay. The claimants are parents and minor son of deceased Ritesh Pankaj Bhai Kapadia, who died in a motor accident on 28.05.2014. The Tribunal, taking his income as Rs.7,44,014/- per annum, applied multiplier of 14, and determined compensation as Rs.90,27,368/-. The Tribunal also awarded interest @ 10% per annum on the said amount of compensation. Mrs. Vidya Lama, learned counsel appearing on behalf of the Appellant, has argued that the income has not been properly assessed and the multiplier is also on higher side. She has also argued that other amounts are not in line with the earlier decisions of the Supreme Court. She has also argued that till date the dead body of the deceased has not been recovered.

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		On the other hand, Mr. Rathi, learned counsel appearing for Respondents 1, 2 and 3 opposes the said arguments. On due consideration of the submissions made by learned counsel for the parties the Application is allowed and it is directed that on the Appellant's depositing Rs.5.00 lakhs before the Tribunal within two weeks' from today, the remainder shall remain stayed until further orders. Out of this amount, an amount of Rs.2.00 lakhs shall be released in favour of claimants 1 and 2 and the remaining amount of Rs.3.00 lakhs shall be kept in a fixed deposit in a Nationalised Bank for a period of 3 (three) months, renewable from time to time. IA No. 01/2016 stands disposed off. List for further orders on 26.04.2016. Chief Justice 04.04.2016

pm/ jk Index Yes / No
Internet : Yes / No