GAHC020003882025 2026:GAU-NL:357

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : MACApp./13/2025

THE ORIENTAL INSURANCE COMPANY LTD.
HAVING ITS REGISTERED ORIENTAL HOUSE A-25/27, ASAF ALI ROAD, NEW DELHI-110002 AND REGIONAL DIVISIONAL OFFICES IN SEVERAL PLACES, INCLUDING A REGIONAL OFFICE AT GUWAHATI ASSAM AND DIVISIONAL OFFICE AT DIMAPUR, IN THE STATE OF NAGALAND.

VERSUS

SMTI. SHEELA PORJA AND 3 ORS
W/O LT. MINTU PRUJA @ PURJA, PERMANENT RESIDENT OF TZUDIKONG TOWN, MOKOKCHUNG, NAGALAND. PRESENT R/O LENGRIJAN, DIMAPUR, NAGALAND

2:MASTER SURAJ PORJA
S/O LT. MINTU PURJA @ MINTU PURJA
PERMANENT RESIDENT OF TZUDIKONG TOWN
MOKOKCHUNG
NAGALAND. PRESENT R/O LENGRIJAN
DIMAPUR
NAGALAND

3:MS PAYAL PORJA
D/O LTY. MINTU PORJA
PERMANENT RESIDENT OF TZUDIKONG TOWN
MOKOKCHUNG
NAGALAND. PRESENT R/O LENGRIJAN
DIMAPUR
NAGALAND

4:SHRI DIPLU PAUL

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S/O DILIP PAUL
R/O HALWATING BAZAAR
P.O. MADHAPNAGAR
SIVASAGAR
ASSAM
(OWNER OF TATA TRIPPER TRUCK B/R NO. AS-04/AC-3066

Advocate for the Petitioner : KIM PIENYU, LAKNYEI PHOM

Advocate for the Respondent : IMTI LONGJEM, CATHERINE ANICHAR,GRACE I NAMGI

Advocates:

For the Appellant	: Kim Pienyu
For the Respondents/Claimants	: Imti Longjem (R/1-3)
	: Catherine Anichar
	: Lhousino (R/4)

Date on which Judgment was reserved	: **08.06.2026**
Date of pronouncement of Judgment	: **16.06.2026**
Whether the pronouncement is of the operative part of the Judgment?	: --
Whether the full Judgment has been pronounced?	: Yes

BEFORE:

HON'BLE MR. JUSTICE PRANJAL DAS

:JUDGMENT & ORDER (CAV):

Heard Ms. Kim Pienyu, learned counsel for the Appellant. Also heard Mr. Imti Longjem, learned counsel and Ms. Catherine Anichar, learned counsel for the Respondent Nos. 1 and 3 and Ms. Lhousino, learned counsel for the Respondent No. 4.

2. The Oriental Insurance Company Ltd. having its Divisional Office at

Dimapur in the State of Nagaland has filed the instant statutory appeal as the Appellant under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the MV Act) being aggrieved by the judgment and award dated 28.02.2025 passed by the learned Member, MACT, Dimapur in MAC Case No. 212/2016 whereby the claim of the Claimants' side was allowed and a total award of ₹6,98,400/- (Rupees six lakh ninety-eight thousand four hundred only) was awarded along with interest at the rate of 7.5% p.a. from the date of filing of the claim petition on 20.02.2016 until payment. The award amount was directed to be paid within a period of 30 (thirty) days.

3. Four respondents have been impleaded, with Respondent Nos. 1, 2 and 3, being the wife and children respectively of the deceased. Respondent no. 4, *Diplu Paul*, is stated to be the owner of the concerned vehicle. It may be mentioned herein that in the meantime, the Respondent No. 2, *Suraj Porja*, son of the deceased is stated to have expired.

4. Before proceeding further, the facts before the learned Tribunal during the proceeding may be noticed. The Claimants' side contended that on 08.01.2014 the deceased, namely, *Mintu Pruja @ Mintu Purja* was driving a Tata Tipper Truck bearing Registration No. AS-04/AC-3066 and at around 10:00 p.m. in the night on the same day, i.e., 08.01.2014, the said truck met with an accident at Yaong Junction near Yaong Village in the district of Longleng, Nagaland. It is stated that during the accident, the truck along with the deceased rolled down and crashed about 100 feet

below the road. The truck was stated to be carrying sand from Halwating Bazar in Assam to be delivered at Longleng. With regard to the accident, a *suo motu* complaint was filed resulting in Longleng Police Station U.D. Case No. 001/2014, whereupon the police went to the spot and found the deceased beneath the truck and he was dead. In the backdrop of such projected facts, the wife of the deceased along with her children filed a claim petition before the Tribunal resulting in the registration of the aforementioned MAC Case. During the proceeding, the Tribunal framed as many as 9 (nine) issues which may be narrated herein below:

1. *Whether the deceased Mintu Pruja @ Mintu Purja @ Minto Porja was the husband of the claimant No. 1 and father of claimant No. 2& 3?*
2. *Whether an accident occurred on 8.1.14 at Yaong Junction involving vehicle B/R No. AS-04/AC3066 (Tata) and whether the deceased was driving the vehicle and whether he died as a result of the accident?*
3. *Whether the deceased was employed as a driver by the vehicle owner and the vehicle was on its way to deliver the goods as directed by the owner?*
4. *Whether the deceased was paid a salary of Rs. 3,200/- per month?*
5. *Whether the vehicle B/R No. AS-04/AC-3066 (Tata Tipper Truck) was owned by O.P. No. 1 and insured by O.P. No. 2 & 3?*
6. *Whether the vehicle had valid documents at the time of accident?*
7. *Whether driver had valid driving license at the time of accident?*
8. *Whether the claim petition is maintainable under M.V. Act?*
9. *Whether the claimants are entitled to any compensation? If so, to what extend and payable by whom?*

5. During the proceedings, the Claimants' side adduced evidence of 2 (two) witnesses being the wife of the deceased as PW-1, and ASI *Shemei Phom*, the Investigating Officer, as PW-2. The Respondents/opposite side

adduced the evidence of the vehicle's owner, *Diplu Paul* as DW-1. Upon completion of the adjudication before the Tribunal, the impugned judgment and award dated 28.02.2025 came to be passed as already mentioned above. The records of the Tribunal were called for and received.

6. Ms. *Kim Pienyu*, the learned counsel for the Appellant/Insurance Company primarily contends that the Claimants' side had filed the claim proceedings under Section 163A of the MV Act prior to the amendment in 2019; that, the impugned award rendered on 28.02.2025 exceeded the stipulated amount of ₹5 lakh provided for such claims and therefore, the impugned judgment and award exceeding the amount of ₹5 lakh stipulated in Section 164 of the MV Act is required to be interfered with. Another contention of the learned counsel for the Appellant is that the award of interest at the rate of 7.5% granted by the learned Tribunal also requires to be interfered with as the Hon'ble Supreme Court has granted a relief of exclusion during the period of the COVID pandemic for the purpose of payment of interest. The learned counsel for the Appellant has submitted a copy of the notification pursuant to the Motor Vehicles (Amendment) Act, 2019 in support of her contentions. She also cites the following decision in support of her case seeking interference with the impugned judgment and award:

i. *The New India Assurance Co. Ltd. through Manager v. Urmila Halder,* reported in 2024 SCC OnLine SC 4983.

7. On the other hand, the learned counsel for the Respondent Nos. 1 and

3 (Claimants before the Tribunal) submits that by way of amendment in 2019, Chapter XI of the MV Act was substituted. The said Chapter XI contained the earlier Section 163A of the MV Act and in terms of the gazette notification, the amendment came into effect from 01.04.2022. In this context, the learned counsel for the Claimants' side submits that as the law has to be applied prospectively and the accident had taken place on 08.01.2014 - therefore, the learned Tribunal did not commit any error in making the present award and in exceeding the amount of ₹5 lakh stipulated by the new provisions of Section 164 of the MV Act brought about by the 2019 amendment. In support of his contentions, the learned counsel for the Respondents/Claimants submits the following decisions:

i. *Valsamma Chacko & Anr. v. M.A. Titto & Ors.,* reported in 2025 SCC OnLine SC 406;

ii. *State of Punjab & Ors. v. Bhajan Kaur & Ors.,* reported in (2008) 12 SCC 112;

iii. *Mohd. Tibul Choudhury v. Regional Manager, National Insurance Co. Ltd. & Ors.,* reported in 2024 OnLine Gau 1984;

iv. *Small Scale Industrial Manufacturers Association (Registered) v. Union of India & Ors.,* reported in (2021) 8 SCC 511;

v. *Aita Maya Gurung & Ors. v. Ratna Kumar Pradhan & Ors.,* reported in 2023 SCC OnLine Sikk 31 and

vi. *Smt. Lakshmidevi & 2 Ors. v. Sali Mathew V. & Anr.,* {M.F.A. No. 2451/2019 (MV)}.

8. Ms. Lhousino, learned counsel appearing for Respondent No. 4, stated to be the owner of the truck, submits that the deceased was an employee

under him. It is submitted that the vehicle was duly insured with the Appellant and it had all the papers at the time of the accident. It is further submitted that the driver also had a valid driving license at the time of the accident.

9. I have perused the appeal memo, the impugned judgment and award, the evidence and other relevant materials before the learned Tribunal during the adjudication. I have considered the submissions of the respective learned counsels and perused the decisions cited at the Bar.

10. As indicated earlier, the main contention of the Appellant/Insurance Company is that in the proceeding before the learned Tribunal, which was filed under Section 163A of the MV Act, the learned Tribunal, in the impugned judgment, violated the ambit of the provision under Section 163A of the MV Act and awarded compensation beyond the permissible limits stipulated in the statutory provision. Another related contention of the Appellant/Insurance Company is that as the judgment was passed after the amendment of 2019 had come into force, with effect from 01.04.2022 – therefore, the Tribunal ought to have applied Section 164 of the MV Act under which only ₹5 lakh has to be paid to the Claimant in death claim cases under the MV Act.

11. Before proceeding further, the statutory provision under Section 163A of the MV Act, as it stood prior to its omission by the 2019 amendment may be reproduced herein below:

> *"**163A. Special provisions as to payment of compensation on structured formula basis.***
> ***(1)** Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor*

vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

***Explanation.**—For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).*

***(2)** In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.*

***(3)** The Central Government may, keeping in view the cost of living, by notification in the Official Gazette, from time to time amend the Second Schedule."*

The aforementioned Second Schedule, prior to the amendment stood as follows:

"THE SECOND SCHEDULE
(See Section 163A)
SCHEDULE FOR COMPENSATION FOR THIRD PARTY FATAL ACCIDENTS/INJURY CASES CLAIMS

1. *(a) Fatal Accidents:*
   Compensation payable in case of Death shall be five lakh rupees.
   (b) Accidents resulting to permanent disability:
   Compensation payable shall be = [Rs. 5,00,000 x percentage disability as per Schedule I of the Employee's Compensation Act, 1923 (8 of 1923)]:
   Provided that the minimum compensation in case of permanent disability of any kind shall not be less than fifty thousand rupees.
   (c) Accidents resulting in minor injury:
   A fixed compensation of twenty five thousand rupees shall be payable:
2. *On and from the date of 1st day of January, 2019 the amount of compensation specified in the clauses (a) to (c) of paragraph (1) shall stand increased by 5 per cent annually."*

12. Thus, it is clear from the above statutory provision that in case of death, a fixed amount of ₹5 lakh is to be paid and in case of permanent disability due to injuries in a motor vehicle accident, the compensation has

to be ₹5 lakh multiplied by the percentage of disability, as per Schedule I of the Employee's Compensation Act, 1923. In case of minor injury, a lump sum amount of ₹25,000/- is to be paid. The said amount is to be increased by 5% every year from 01.01.2019. This is the structured formula laid down under Section 163A of the MV Act. As stated earlier, the amendment of the MV Act in 2019 - which came into force from 01.04.2022 - omitted this provision and substituted it by Section 164 of the MV Act. The relevant statutory provision of Section 164 may be reproduced herein below:

> *"**164. Payment of compensation in case of death or grievous hurt, etc.-***
> *(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.*
> *(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.*
> *(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section."*

13. Thus, it is clear from the above statutory provision that after the amendment, the structured formula underwent a change and now only lump sum amounts are envisaged which is ₹5 lakh in death claim cases and ₹2,50,000/- in cases of grievous injuries.

14. In the case of *Urmila Halder (supra)*, the point for consideration before the Hon'ble Apex Court was whether the 2018 amendment in Section 163A of the MV Act which came into effect from 22.05.2018 would

relate to an accident, which occurred prior to the said date. *Urmila Halder (supra)* before the Supreme Court had arisen out of a decision dated 09.08.2018 passed by the Calcutta High Court in *Urmila Halder Versus New India Assurance Co. Ltd. & Ors.,* reported in 2018 SCC OnLine Cal 11751. In the said decision, the Calcutta High Court took up the same issue which was mentioned in paragraph no. 14 of the judgment which is reproduced hereinbelow:

> *"**14.** With that in view, we invited such learned advocates to address us on the following issue:*
> *Whether, after the amendment brought about by the said notification, the new schedule would be applicable to pending claim applications under Section 163-A before the motor accident claim tribunals as well as the appeals arising out of awards delivered there under prior to May 22, 2018?"*

15. Section 163A and Schedule-II of the MV Act were introduced in 1994 and with regard to death claims, the compensation has to be according to a multiplier chart. Further, standard amounts were also prescribed for loss of estate, funeral expenses, medical expenses, consortium, etc. The Court in awarding compensation under 163A of the MV Act, prior to the 2018 amendment was strictly bound by these parameters. The provision underwent an amendment in 2018 which came into effect from 22.05.2018. The multiplier chart and the standard amounts were done away with and a fixed amount of ₹5 lakh was to be given for death claim cases; while for serious injury cases resulting in permanent disability, ₹5 lakh was to be multiplied by the percentage of disability. The percentage of disability in turn was to be as per the Schedule-I of the Employees' Compensation Act, 1923. For minor injury cases, a lump sum amount of ₹25,000/- was given.

16. As mentioned above, in *Urmila Halder (supra)* before the Calcutta

High Court, the question was about applicability of the amended Schedule on pending claim applications and appeals post 22.05.2018. In paragraph no. 125, the issue was answered by the Calcutta High Court as follows:

> *"**125.** Therefore, the conclusion seems to be inescapable that while deciding pending claim applications/appeals post May 22, 2018, the new schedule ought to be applied by the tribunals/this Court for determining compensation payable to the legal heirs of an accident victim or to the victim himself regardless of whether the new schedule is beneficial to them or not. The issue framed in paragraph 12 is accordingly, answered."*

17. As also mentioned above, the said decision was taken up to the Hon'ble Supreme Court in *Urmila Halder (supra)*, reported in 2024 SCC OnLine SC 4983. The same question was posed for consideration before the Hon'ble Apex Court as mentioned in paragraph no. 4, which is reproduced hereinbelow:

> *"**4.** The short point for consideration before this Court is whether the amendment in Section 163-A of the Motor Vehicles Act, 1988, which came into effect by a Gazette Notification on 22nd May, 2018, would relate to an accident which had occurred prior to the said date."*

18. The Hon'ble Apex Court upheld the decision of the Calcutta High Court and in this context, paragraph nos. 9 and 10 of the judgment are reproduced hereinbelow:

> *"**9.** Having considered the matter, we do not find any reason to interfere with the judgment impugned. With regard to the judgments of this Court relied upon by learned counsel for the appellant, having gone through the same we find that they are distinguishable from the facts of the present case and thus, the ratio of those cases would not apply in the present case.*
>
> ***10.** The order of the High Court is well discussed and we agree with the view taken. We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-Insurance Company has not been interfered with. Only the computational mode and the modality have been further clarified, which rightly has been noted by the High Court and accordingly, the claim has been enhanced to Rs. 5,00,000/-(Rupees Five Lakh). As 50% of the compensation amount was stayed by this Court, the same be paid to the respondent in terms of the impugned judgment within eight weeks."*

19. Thus, it is made clear from the decision in *Urmila Halder (supra)*

rendered by the Calcutta High Court and more importantly, the decision in *Urmila Halder (supra)* rendered by the Hon'ble Apex Court - that in pending claim petitions and appeals, the compensation, in proceedings filed under Section 163A of the MV Act, has to be awarded in terms of the said provision of Section 163A of the MV Act (*As amended in 2018, which came into force from 22.05.2018*).

20. As already discussed above, the 2019 amendment of the MV Act which came into effect from 01.04.2022 omitted Section 163A altogether and substituted it by Section 164, which further simplified the structured formula by laying down that – for death claim cases a fixed amount of ₹5 lakh is to be given; for grievous injury cases a lump sum amount of ₹2.5 lakh. Thus, after the 2019 amendment, the provision made for death claim cases by way of a lump sum compensation of ₹5 lakh is the same in Section 164 – as was in Section 163A of the MV Act *(amended in 2018*).

21. In the aforesaid position of law - in the instant case, whether the Tribunal can be taken to be invoking Section 164 or the earlier Section 163A (as amended in 2018) of the MV Act – the compensation amount would be the same, i.e., ₹5 lakh as lump sum amount.

22. Another important contention of the Insurance Company is that as the adjudication was after the coming into effect of the 2019 amendment, therefore, the learned Tribunal has to apply the provisions of Section 164 of the MV Act. Now, the question is, in a situation where accident had taken place prior to 01.04.2022 (*coming into force of the 2019 amendment*), but the claim proceeding comes up for adjudication after 01.04.2022 - whether the Tribunal has to apply the structured formula under Section 163A, MV Act or the formula envisaged in Section 164 of the MV Act.

23. No decision of this Court giving an answer on the said point has come to notice or has been placed by the parties; however, there are divergent views of other High Courts. Thus, the Karnataka High Court in *Smt. Lakshmidevi & 2 Ors. v. Sali Mathew V. & Anr. (supra)* held in favour of applying the provisions of Section 163A (as amended in 2018), read with the Second Schedule of the MV Act in no-fault claim proceeding, if the accident had taken place prior to the coming into effect of the 2019 amendment. On the other hand, the Kerala High Court in *Radha & 3 Ors. v. The Oriental Insurance Co. Ltd.*, (MACA No. 791/2017), 2025:KER:79988 and the Madras High Court in *Durgaram v. Arjunan & Ors.,* CMA No. 1141 of 2022 – held in favour of applying Section 164 of the MV Act even if the accident had taken place prior to 01.04.2022 (*when the 2019 amendment came into force*). The Delhi High Court also took a similar view in *Iffco Tokio General Insurance Company Limited v. Uma Devi & Ors.,* 2023 SCC OnLine Del 3131.

24. As already discussed, in *Urmila Halder (supra)* the Hon'ble Apex Court has held in favour of applying the provision of 163-A (as amended in 2018), even if the accident had taken place prior to 22.05.2018, when the 2018 amendment came into force.

25. Applying the same principle, this Court is of the opinion that in adjudication of pending no-fault claims (filed under the now omitted Section 163A of the MV Act or the present Section 164 of the MV Act) – the compensation should be determined on the basis of the formula

enunciated in Section 164 of the MV Act, which is the current and latest statutory position of the law governing the subject.

26. In the instant case, the learned Tribunal has exceeded the amount of ₹5 lakh envisaged in Section 164 of the MV Act and awarded compensation beyond that. And it has also awarded compensation for heads such as consortium, loss of estate, etc., which are not envisaged in the formula laid down in Section 164 of the MV Act. Therefore, the determination and quantification of the compensation amount made by the Tribunal has to be interfered with in this appeal by reducing it to Rs. 5 lakhs.

27. The decision in *Aita Maya Gurung and Others (supra)* relied upon by the Respondents/Claimants' side was about the applicability of the limitation period of 6 (six) months inserted by the 2019 amendment of the MV Act. After discussing various decisions, the Sikkim High Court held that as the accident had taken place on 17.09.2010, the limitation period would not be applicable. Similarly, in *Mohd. Tibul Choudhury (supra)* relied upon by the Respondents/Claimants' side, a similar position was taken by this Court with regard to the limitation period brought about by the 2019 amendment (w.e.f. 01.04.2022) vis-à-vis the accident which had taken place on 03.05.2019. These decisions are on separate trajectory pertaining to the issue of limitation and would not come to the aid of the Respondents' side in view of the clear determination in *Urmila Halder (supra)* and the legal principle behind the said decision. In *Bhajan Kaur (supra)*, it was held in paragraph no. 9 that statute is presumed to be

prospective unless held to be retrospective – expressly or by necessary implication. It was further observed that substantive law is presumed to be prospective and that the same is one of the facets of rule of law.

28. Coming to the instant case, the Tribunal has also awarded interest at the rate of 7.5% from the date of filing of the claim petition till payment. Section 171 of the MV Act provides for awarding of interest on compensation. The statutory provision does not make a distinction between a claim proceeding under Section 166 of the MV Act and a claim proceeding under Section 163A of the MV Act or Section 164 of the MV Act. In this regard, reference may be made to decisions of the Hon'ble Supreme Court in the cases of *Kaushnuma Begum v. New India Assurance Co. Ltd.*, reported in (2001) 2 SCC 9 and *Deepal Girishbhai Soni v. United India Insurance Co. Ltd.*, reported in (2004) 5 SCC 385.

29. Thus, it is clear that even in a proceeding under Section 163A/164 of the MV Act, interest can be awarded. These are usually awarded at the standard bank rates.

30. The Tribunal has awarded an interest at the rate of 7.5% and there is no reason to interfere with that rate awarded by the Tribunal.

31. One of the contentions of the Appellant's side with regard to interest is that the interest amount should be excluded for the period of the COVID pandemic. However, the decision cited by the learned counsel for Respondent Nos.1, 2 and 3 - the case of *Small Scale Industrial*

Manufactures Association (supra) assumes relevance and significance. In the aforesaid decision, the Hon'ble Apex Court was dealing with a case of interest on borrowings and loans and considering the situation during the pandemic, the Hon'ble Supreme Court excused the payment of interest on interest / compound interest / penal interest for the moratorium period.

32. However, the instant case is one of interest on compensation within the ambit of a beneficial legislation like the MV Act, pertaining to accident claim compensation. Therefore, in my considered view, the aforesaid decision rather comes to the aid of the Respondents' side and I find no reason to exclude any period for interest payment.

33. Thus, in the facts and circumstances of the case and in the backdrop of the aforesaid discussion - the compensation amount is modified and the respondent claimants are hereby awarded a lump sum amount of ₹5 lakh, along with interest at a rate of 7.5% from the date of filing of the claim petition till payment. The total compensation amount, inclusive of interest, shall be paid by the Appellant/Insurance Company within a period of 3 (three) months.

34. The instant appeal accordingly stands **allowed**, to the extent indicated above and is disposed of.

35. Return the original TCR.

36. Return the statutory deposit amount of ₹ 25,000/- (Rupees twenty-

five thousand only) to the Insurance Company.

JUDGE

Comparing Assistant