

GAHC010131502013



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

**Case No. : MACApp. 263/2013**

1:NABA KANTA DEKA  
S/O SRI TARINI KANTA DEKA, R/O VILL. BYASPARA KAHARPARA,  
P.O.BYASPARA, P.S.SIPAJHAR, DIST. DARRANG, ASSAM.

VERSUS

1:PADMA SAIKIA and ANR.  
S/O LATE BANESWAR SAIKIA, R/O VILL. BHOTPARA, P.O. DHEKIAJULI, P.S.  
DHEKIAJULI, DIST. SONITPUR, ASSAM OWNER OF THE VEHICLE NO. AS-  
01 AA 5613, TYPE TRUCK

2:NEW INDIA ASSURANCE CO. LTD.  
ULUBARI BRANCH  
GUWAHATI 781007  
DIST. KAMRUP M  
ASSAM

**Advocate for the Petitioner : MR.T J MAHANTA, MS. P BHATTACHARYA**

**Advocate for the Respondent : MRS. M CHOUDHURY**

**BEFORE**  
**HONOURABLE MR. JUSTICE MIR ALFAZ ALI**

**ORDER**

**Date : 31-05-2018**

Heard Ms. P Bhattacharya, learned counsel for the appellant and Mrs. M Choudhury, learned counsel for the respondent No.2, New India Assurance Co. Ltd.

**2.** Unsatisfied with the award made by the MACT, Mangaldoi in MAC Case No.5/2009, the claimant has preferred this appeal for enhancement.

- 3.** One Naba Kanta Deka sustained injury in a motor vehicle accident on 18.05.2008, involving vehicle bearing registration No.AS-01/AA/5613 (truck), owned by respondent No.1 and insured with respondent No.2. The injured claimant approached the MACT seeking compensation and the learned tribunal by the impugned award granted a lumpsum compensation of Rs.1,00,000 (one lakh) with interest @ 8% per annum from the date of filing of the claim petition.
- 4.** Learned counsel for the appellant submits that the claimant incurred medical expense of Rs.1,41,249/- and produced documentary evidence to that effect. However, learned tribunal granted only Rs.80,000/- towards medical expense.
- 5.** The impugned judgment of the learned tribunal transpires that certain documentary evidence were discarded by the learned tribunal entertaining doubt about their genuineness for the reason, that those documents did not contain signatures of the author. Learned counsel for the appellant has pointed out that those medicine purchased cash memos were computer generated documents and usually such documents does not contain signatures.
- 6.** In a proceeding before the MACT, the tribunal should not go into the niceties of the matter, and it should scrutinize the evidence in the touchstone of preponderance of probability and not beyond reasonable doubt. Even if some discrepancies here and there are found, the tribunal should appreciate those discrepancies with a broader view taking a holistic approach, so that the victims of vehicular accident are not deprived of just and fair compensation.
- 7.** In the instant case, the petitioner was in hospital for about 16 days and having regard to the nature of injury and his staying in the hospital for a period of 16 days, I do not find anything unusual or absurd in the documentary evidence adduced by the claimants relating to treatment.
- 8.** Having considered the totality of the matter, more particularly, the documentary evidence, I am of the view that claimant is entitled to the actual medical expense of Rs.1,41,000/- which he had incurred for the treatment. In addition to the above medical expense, the claimant shall also be entitled to Rs.5,000/- for future treatment and Rs.5,000/- for travelling expense, besides the

non pecuniary damage on account of pain and suffering awarded by the tribunal. Accordingly, the claimant in the instant case shall be entitled to the enhanced compensation as under:

Medical expense	: Rs.1,41,000
Travelling expense	: Rs. 5,000
Future treatment	: Rs. 5,000
Pain & suffering	: Rs. 20,000

---

: Rs. 1,71,000

**9.** The insurance company shall satisfy the above award by depositing the same within 6 (six) weeks with the tribunal. The amount already paid in the meantime shall stands adjusted. The appeal is accordingly allowed.

**10.** Send back the LCR.

**JUDGE**

**Comparing Assistant**