



HIGH COURT OF SIKKIM
Record of Proceedings through Video Conferencing

MAC App. No. 10/2020

THE BRANCH MANAGER,
THE NEW INDIA ASSURANCE CO. LTD.

APPELLANT (S)

VERSUS

SHYAM BABU SINGH & ORS.

RESPONDENT (S)

For Appellant : Mr. Sudesh Joshi, Advocate.

For Respondents No. 1 to 5 : Mr. N. Rai, Senior Advocate
Mr. K.B. Chettri, Advocate.

For Respondent No.6 : Mr. Sisir Mothay, Advocate.

Date: 27/03/2021

CORAM :

HON'BLE MR. JUSTICE JITENDRA KUMAR MAHESHWARI, CJ.

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Being aggrieved by the award dated 29.02.2020 passed by the Motor Accidents Claims Tribunal, East Sikkim at Gangtok in MACT CASE No. 75 of 2018, granting compensation of sum of Rs.30,94,000/- to the claimants who are father, mother and siblings of the deceased, this appeal has been preferred.

On perusal of the record, it reveals that the Claims Tribunal has relied upon the income certificate (Exhibit-9) issued by the Block Development Officer (BDO) showing an earning of Rs.20,000/- per month. Relying thereto and calculating the annual earning of Rs.2,40,000/-, further as per the age of the deceased adding Rs.40,000/- per annum for future prospects deducting one-half because the claimants were the parents, applying the multiplier of 18 looking to the age of deceased awarded a sum of Rs.30,24,000/- in the head of Loss of Dependency and further adding of Rs.70,000/- in conventional heads granted compensation of Rs.30,94,000/-.

Learned Counsel appearing on behalf of the Insurance Company has strenuously argued that as per the Notification issued by the State Government dated 03.04.2007, the income certificate may be issued by the BDO, but he has to verify the details of the transactions recorded in the Books of Account.



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In the present case, the BDO has not so verified the transactions in the Books of Account, therefore, the reliance made by the Tribunal on the income certificate issued by the BDO is not justifiable, therefore, the quantum of compensation as awarded is on higher side which may reasonably be reduced.

On perusal of the aforesaid, it is quite clear that the BDO in the State of Sikkim is competent to issue the Income Certificate, as per Notification dated 03.04.2007. In terms of the power conferred on him, the Income Certificate (Exhibit-9) is the relevant and relied by the Tribunal to determine the loss of dependency and future prospects due to death of the deceased.

In the said context, it is to observe that if the income certificate issued by a competent authority has been relied by the learned Tribunal accepting the earning of Rs.20,000/-, the onus to disprove it shifts on the insurance company. However, it was the duty of the insurance company to call the BDO in the witness box and put question to him whether he has verified the books of transaction of business recorded in the Books of Account while issuing the income certificate. In absence of taking such steps, the argument so advanced by the counsel for the appellant is of no help to him.

In view of the foregoing and in the opinion of this Court, reliance so placed by the Tribunal on the income certificate (Exhibit-9) cannot be doubted as it was issued by the competent authority. The calculation so made by the Tribunal on the basis of the said certificate deducting one-half and applying the multiplier of 18 as per age of deceased is in accordance with law and do not warrant any interference in the appeal. Except the same no other argument has been pressed upon by the learned Counsel for the appellant.

In view of foregoing, this appeal is devoid of any merit hence dismissed at the admission stage.

Chief Justice