

(2021) 07 SIK CK 0002

In the Sikkim High Court

Case No : Motor Accident Claim Appeal No. 06 Of 2020

Branch Manager, New India Assurance Co. Ltd

APPELLANT

Vs

Arjun Rai & Anr

RESPONDENT

Date of Decision : 01-07-2021

Acts Referred:

Citation : (2021) 07 SIK CK 0002

Hon'ble Judges : Jitendra Kumar Maheshwari, CJ

Bench : Single Bench

Advocate : Sudesh Joshi, B.K. Gupta

Final Decision : Disposed Of

Judgement

Jitendra Kumar Maheshwari, CJ

Learned Counsel appearing on behalf of the appellant has strenuously urged and stated across the Bar that in MAC App. No.10/2020, the same

question has already been decided, however, the order passed in the said case would not be applicable in this case also.

The order passed in the said appeal is as under:

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.

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.

Learned Counsel appearing on behalf of the respondents having no objection to decide the appeal in the terms of the above.

Considering the aforesaid, this appeal stands disposed of in terms of the order

passed in MAC App. No.10/2020 dated 27.03.2021.

Accordingly, MAC App. No.06 of 2020 stands disposed of.

All the pending applications be treated as disposed of.