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**(1998) 09 GAU CK 0027**  
**In the Gauhati High Court**  
**Case No : Civil Rule No. 150 of 1997**

New India Assurance Co. Ltd.

APPELLANT

Vs

Smt. Milan Rani Saha and Others

RESPONDENT

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**Date of Decision :** 02-09-1998

**Acts Referred:**

Constitution of India, 1950 — Article 141, 227

Motor Vehicles Act, 1988 — Section 163A, 163A(1)

**Citation :** (1999) ACJ 974 : AIR 1999 Guw 8 : (1998) 3 GLT 469

**Hon'ble Judges :** D. Biswas, J

**Bench :** Single Bench

**Advocate :** D.K. Biswas, for the Appellant; B.B. Deb and S. Das, D. Choudhury, K.G. Bhowmik and B. Debnath, for the Respondent

**Final Decision :** Allowed

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## Judgement

D. Biswas, J.—In this writ petition under Articles 226 and 227 of the Constitution of India, the New India Assurance Company Ltd. has assailed the award of compensation of Rs. 3,02,400/-passed by the learned Member. Motor Accident Claims Tribunal, West Tripura, Agartata in T.S. (MAC) 34 of 1992 on the ground that the learned Tribunal has computed the compensation in total disregard to the provisions of the Motor Vehicles Act. 1988 and the interpretation thereof rendered by the Supreme Court in U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others,

2. For better appreciation, the provisions of Section 163-A( 1) of the Motor Vehicles Act. is quoted below :

"163A. Special provisions as to payment of compensation oh 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 of the authorised insurer shall be liable to pay in the ease 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 subsection, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923)."

3. It may be mentioned here that inane Second Schedule of the Act, a churl has been provided for assessment of compensation depending on annual income and age of the deceased. The learned counsel for the petitioner submitted that the Tribunal has violated the provisions of the Act by applying a multiplier of 21 which according to the schedule ought to have been 15 considering the age of the deceased and the age of the claimant mother aged 43. The learned counsel further argued that, apart from non-compliance of the provisions of the Act, the Tribunal has also violated the guidelines prescribed in Trilok Chandra (supra). The net content of his argument is that an award, although passed under a special Act, being contrary to the law laid, down by the Supreme Court, can be questioned under Article 227 of the Constitution even though the appellant-Company is not entitled to file an appeal under the provisions of the Act. He has also relied upon the provisions of Article 141 which says that the law delivered by the Supreme Court shall be binding on all Courts within the territory of India.

4. This Court cannot differ with the view that a wrong exercise of jurisdiction by a Tribunal in total disregard to the statutory provisions as well as the law delivered by the Supreme Court may be corrected by this Court in exercise of its power under Article 227 of the. Constitution specially when it occasions failure of justice.

5. In Laxmikant Revchand Bhojwani and Another Vs. Pratapsing Mohansingh Pardeshi Deceased through his Heirs and Legal Representatives, it has been held by the Supreme Court:--

"9. Before parting with this judgment we would like to say that the High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India in the present case. The Act is a special legislation governing landlord-tenant relationship and disputes. The legislature has in its wisdom, not provided second appeal or revision to the High Court. The object is to give finality to the decision of the appellate authority. The High Court under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes."

6. In Trilok Chandra (supra), the Supreme Court laid down the guidelines as to the computation of compensation under the Motor Vehicles Act. In this case, the dispute does not relate to the finding of fact but computation of compensation which is contrary to the provisions of law.

7. In the instant case, the Tribunal has awarded Rs. 3,02,400/- for

compensation. If the calculation is made as per formula laid in para 15 of the aforesaid judgment and with reference to the provisions in the Second Schedule, the compensation appears to be almost double the amount payable. This is undoubtedly an instance of grave dereliction of duty and flagrant abuse of fundamental principles of law and justice, and, therefore, calls for interference by this High Court under Article 227 of Constitution.

8. In the result, the petition under Article 227 is allowed. The impugned award dated 16-12-1996 passed by the learned Tribunal is hereby quashed. The matter is remitted back to the learned Tribunal only for the purpose of computation afresh in accordance with the provisions of the Act and the guidelines laid down by the Supreme Court in *Trilok Chandra* (supra). The petitioner as well as the respondents are directed to appear before the learned Tribunal within a period of 15 days from today and, thereafter the learned Tribunal, after hearing submission of the parties, shall pass necessary orders in the light of the observations made above.