
(2025) 08 GAU CK 0353
In the Gauhati High Court
Case No : MAC.A. 136 Of 2023

New India Assurance Company Ltd

APPELLANT

Vs

Bipul Baruah

RESPONDENT

Date of Decision : 29-08-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2025) 08 GAU CK 0353

Hon'ble Judges : Budi Habung, J

Bench : Single Bench

Advocate : R. Goswami, G. Choudhury

Final Decision : Disposed Of

Judgement

Budi Habung, J

1. Heard Mr. R. Goswami, learned counsel for the appellant Insurance Company. Also heard Mr. G. Choudhury, learned counsel, appearing on behalf of respondent No. 1/claimant.

2. This appeal under Section 173 of the Motor Vehicle Act, 1988, has been preferred by the appellant Insurance Company against the judgment & award, dated 16-03-2022, passed by the learned Additional Member No. 2, Motor Accident Claim Tribunal, Tinsukia, in MAC. Case No. 68/2017, whereby, a compensation amount of Rs. 13,14,600/- was awarded along with interest at the rate of 6% per annum to be paid to the respondent No. 1/claimant from the date of filing of the claim petition till realisation of the same on account of the death of the claimant's son late Arun Baruah in a motorcycle accident which occurred on 02-10-2014 at about 8.30am.

3. Mr. Goswami, learned counsel for the appellant Insurance Company, at the very outset, has made it clear that the factum of the accident and liability of the insurer/appellant Insurance Company, is not in dispute. The only contention urged by the appellant Insurance Company in this appeal is with regard to the

deduction made towards personal and living expenses of the deceased.

4. Mr. Goswami, learned counsel for the appellant Insurance Company, has further submitted that the learned Motor Accident Claims Tribunal, Tinsukia, deducted one-third of the income of the deceased, whereas, it is the case of the appellant Insurance Company that the deceased was a bachelor and only the mother was dependant on him and therefore, the correct deduction should be 50% in view of the law laid-down by the Hon'ble Supreme Court in the case of *Sarla Verma & ors. v. Delhi Transport Corporation & anr.*, reported in (2009) 6 SCC 121.

5. Mr. Goswami, learned counsel for the appellant, has, accordingly, submitted that the father of the deceased has not been treated as a dependant and therefore, as per the ratio laid down by the Hon'ble Supreme Court in *Sarla Verma*(supra); 50% of the income is required to be deducted towards the personal expenses of the deceased. It is the further case of the appellant Insurance Company that one-third deduction is applicable only in cases where the deceased had a spouse and children dependant on him.

6. Per contra, Mr. Choudhury, learned counsel for the respondent No. 1/claimant, while relying on paragraph No. 26 of the decision rendered by the Hon'ble Supreme Court in the case of *Sarla Verma* (supra), has submitted that the principle as laid down by the Hon'ble Supreme Court in *Sarla Verma*(supra) is merely a guideline and not an inflexible rule.

7. In support of his submissions, Mr. Choudhury, learned counsel for the respondent No. 1/claimant, has placed reliance on the decisions of the Hon'ble Supreme Court rendered in the case of *Magma General Insurance Company Ltd. v. Nanu Ram alias Chuhru Ram & ors.*, reported in (2019) 1 Supreme 262 and *New India Assurance Company Ltd. v. Smt. Somwati & ors.*, reported in (2020) 4 Supreme 667, to contend that even one-third deduction could be permissible depending on the facts of the case.

8. I have heard the rival submissions advanced by the learned counsels appearing for the parties and also perused the materials available on record.

9. The law on the issue, in question, stands settled by the Hon'ble Supreme Court as laid down by it in *Sarla Verma*(supra), more particularly, in paragraphs No. 30, 31 & 32. The paragraphs No. 30, 31 & 32 of *Sarla Verma*(supra), being relevant, is reproduced, hereinbelow:

"30. Though in some cases, the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in *Trilok Chandra*, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, we of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third(1/3rd) where the number of dependent family members is 2 to 3, one-fourth(1/4th) where the number of dependent family members is 4 to

6, and one-fifth($1/5$ th) where the number of dependent family members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus, even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third."

10. From the above discussions, it is clear that in the case of unmarried daughter/bachelor where the parents are dependants, it is appropriate to deduct 50% of the income towards personal and living expenses of the deceased. The deduction of one-third is normally applicable only when the deceased was married with spouse and children as dependants. This principle has been consistently affirmed by the Hon'ble Supreme Court in its subsequent decisions rendered in the case of *Reshma Kumari & ors. v. Madan Mohan & anr.*, reported in (2013) 9 SCC 65 and *National Insurance Company Ltd. v. Pranay Sethi*, reported in (2017) 16 SCC 680.

11. In the case in hand, it is not disputed that the deceased was a bachelor and the only dependant was his mother. There is no evidence to suggest that the deceased was maintaining a large family to fulfill the requirement as noted by the Hon'ble Supreme Court in the case of *Sarla Verma* (supra).

12. In view of the above, the learned Motor Accident Claim Tribunal, Tinsukia, erred in applying the one-third deduction. The correct deduction in terms of *Sarla Verma* (supra), in the instant case, should be 50% of the income of the deceased.

13. Consequently, the compensation awarded by the learned Motor Accident Claim Tribunal, Tinsukia, requires re-calculation by substituting the deduction of one-third with 50%. The other components of the award including assessment of income, multiplier, addition of future prospect and conventional heads like funeral expenses, loss of consortium and loss of estate; remained undisturbed.

Accordingly, the appeal is allowed to the extent indicated above.

14. The compensation shall be modified by the learned Motor Accident Claim Tribunal, Tinsukia, by recalculating the loss of dependency by 50% towards personal expenses of the deceased. The respondent No. 1/claimant shall be entitled to the modified compensation so determined along with the interest at the rate of 6% p.a. from the date of filing of the claim petition till realisation of the same as mentioned in the judgment & award, dated 16-03-2022.

15. Mr. Choudhury, learned counsel for the respondent No. 1/ claimant, at this stage, has brought to the notice of this Court that the respondent No. 1/claimant has already received 50% of the awarded amount deposited by the appellant Insurance Company before the Registry of this Court.

16. The appellant Insurance Company is hereby directed to deposit the balance of the modified awarded amount before the learned Motor Accident Claim Tribunal, Tinsukia, within a period of 8(eight) weeks from today after adjusting the sum already paid, for release to the respondent No. 1/claimant in accordance with law.

17. With the above directions and observations; the instant appeal, accordingly, stands disposed of.

18. Remit the connected Trial Court records to the Office of the learned Motor Accident Claim Tribunal, Tinsukia, forthwith.