

(2025) 11 GAU CK 1782
In the Gauhati High Court
Case No : MACApp. Of 377 Of 2018

Payari Devi And 4 Ors

APPELLANT

Vs

Manoj Kumar Jain And Anr

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 173
Evidence Act, 1872 — Section 35

Citation : (2025) 11 GAU CK 1782

Hon'ble Judges : Kaushik Goswami, J

Bench : Single Bench

Advocate : A Lal, M Bezbaruah, P K Garodia, B Das, B K Jain, O Phukan, K K Bhatta

Final Decision : Allowed

Judgement

Kaushik Goswami, J

1. Heard Mr. A Lal, learned counsel appearing for the appellants. Also heard Ms. C Agarwal, learned counsel for the respondent No. 1 as well as Mr. K. K Bhatta, learned counsel appearing for the respondent No. 2, Insurance Company.

2. This appeal under Section 173 of the Motor Vehicles Act, 1988, is directed against the judgment and award dated 13.02.2017, passed by the learned Motor Accident Claims Tribunal No. 3, Kamrup (Metro), Guwahati in M.A.C. Case No. 2122/2012, whereby the Tribunal, while allowing the claim petition, assessed the monthly income of the deceased at Rs. 4,500/- and awarded total compensation of Rs. 6,36,500/- (rupees six lakhs thirty six thousand five hundred only) with interest @ 6% from 02.09.2015.

3. The claimants/appellants seeks enhancement of the award on the primary ground that the learned Tribunal failed to properly assess the income of the deceased. It is contended that although the claimant produced both, a salary certificate and the Income-Tax Returns (ITRs) of the deceased, the Tribunal

rejected the salary certificate for want of proof and did not take into account the exhibited ITRs while determining the income of the deceased.

4. The deceased, Karan Singh, son of the claimant No. 1 (Smt. Payari Devi) died in a road traffic accident on 27.10.2012 near Dharapur Petrol Pump, NH-37 after being hit by a Maruti Car bearing Registration No. AS-01-MA-2789.

5. The claimants accordingly preferred a compensation case before the Motor Accident Claims Tribunal No. 3, Kamrup (Metro), Guwahati, being M.A.C. Case No. 2122/2012.

6. The deceased, son of the claimant No. 1, was working as an electrician in a private hospital, earning about Rs. 5,299/- per month, as reflected in the salary certificate produced along with the claim petition being marked as Exhibit-5. The claimant further deposed that the deceased was also engaged in additional electrical work during his free hours.

7. The claimant exhibited two Income-Tax Returns, ITR-4 and ITR-V for the Assessment Years 2010-11 and 2011-12, marked as Exhibits 6(1) and 6(2) respectively. These returns, bearing the acknowledgment and seal of the Income-Tax Department, clearly indicate that the deceased was an Income-Tax assessee.

8. The learned Tribunal, however, rejected the salary certificate on the ground that it was not duly proved, and without adverting to or discussing the exhibited ITRs, assessed the income notionally at Rs. 4,500/- per month.

9. Mr. A Lal, learned counsel for the appellants, submits that the Tribunal failed to consider the relevant materials, particularly, the Income-Tax Returns for the assessment years 2010-11 and 2011-12, while assessing the monthly income of the deceased. He further submits that the Tribunal ought to have applied the appropriate multiplier by taking into account the age of the deceased and not the multiplier 13 which is taken on the basis of the age of the mother of the deceased. He further submits that the claimants are entitled to interest @ 9% from the date of the filing of the claim petition till payment. He accordingly submits that the impugned award of the Tribunal be enhanced by this Court by taking into account the ITRs exhibited to determine the monthly/yearly income of the deceased, applying the appropriate multiplier; and granting appropriate rate of interest payable from the date of filing of the claim petition.

10. Per contra, Mr. K. K Bhatta, learned counsel for the respondent No. 2, Insurance Company, while fairly conceding that the two ITRs exhibited have not been taken into consideration by the Tribunal while determining the income of the deceased and that interest ought to have been granted ordinarily from the date of filing of the claim petition, however, he submits that the rate of interest fixed by the Tribunal as payable to the claimants being fair and reasonable, the same ought not to be interfered with.

11. Ms. C Agarwal, learned counsel for the owner cum driver of the vehicle/respondent No. 1 submits that upon filing of an appeal by the owner of the

offending vehicle/respondent No. 1 before this Court, i.e., MACApp. No. 373/2017 challenging the said judgment and award of the Tribunal dated 13.02.2017 which is under appeal before this Court on the limited ground of examining the validity of the driving license of the owner cum driver of the vehicle/respondent No. 1; a Co-ordinate Bench of this Court by order dated 31.07.2024 remanded the matter back to the Tribunal to examine the validity of the driving license of the respondent No. 1. She further submits that thereafter the Tribunal by judgment and order dated 15.02.2025 passed in M.A.C. Case No. 2122/2012 was pleased to hold that the driving license of the respondent No. 1 was valid as on the date of the accident and accordingly, was further pleased to direct the Insurance Company/OP-2 to pay the compensation amount along with interest as ordered by the Tribunal to the claimants/appellants within 30 days from the date of the said order.

12. Heard the learned counsels for the parties and perused the materials available on record.

13. The issues that arise for determination in the instant appeal are:

(i) Whether the Tribunal erred in failing to consider the exhibited Income-Tax Returns while determining the income of the deceased; and if the answer is in the affirmative,

(ii) whether the income of the deceased ought to be reassessed by this Court after taking into consideration the exhibited ITRs, or whether the matter should be remanded to the Tribunal for limited verification and reassessment.

14. It is well settled that Income-Tax Returns are statutory documents filed before a competent public authority and carry a presumption of correctness unless proved otherwise. In *Sunil Sharma v. Bachitar Singh & Ors.*, (2011) 11 SCC 425, the Apex Court held that – “the income disclosed in the income-tax return filed by the deceased during his lifetime is a statutory declaration which can safely be relied upon to assess income in motor accident claim proceedings.”

15. Likewise, in *Malarvizhi & Ors. v. United India Insurance Co. Ltd.*, (2020) 3 SCC 21, the Apex Court reiterated that even certified photocopies of income-tax returns can be relied upon in motor accident claims, and that strict rules of evidence are not to be applied in summary proceedings before the Tribunal. Relevant paragraphs of the aforesaid judgment read as under –

“10. The Tribunal proceeded to determine the agricultural income arising from 36.76 ac of land on the basis of two judgments of the High Court. The Tribunal arrived at two different figures by applying the decisions and proceeded to determine the agricultural income on an average of the two amounts. The Tribunal superimposed a possible value of income from agricultural land despite a clear indication in the income tax returns of the agricultural land. The method adopted by the Tribunal is not sustainable in law. On the other hand, the High Court has proceeded on the basis of the income reflected in the income tax

returns for Assessment Year 1997-1998. The relevant portion of the return reads:

Income From House Party – Rs. 1920

Business profit (other than 14b) – Rs. 1,21,071

Net Agricultural income – Rs. 88,140

The tax return indicates an annual income of Rs. 2,11,131 in the relevant assessment year. Mr. Jayanth Muth Raj, learned Senior Counsel appearing on behalf of the appellant contended that other documents were marked which reflected the income of the deceased. We are in agreement with the High Court that the determination must proceed on the basis of the income tax return, where available. The income tax return is a statutory document on which reliance may be placed to determine the annual income of the deceased. To the benefit of the appellants, the High Court has proceeded on the basis of the income tax return for Assessment Year 1997-1998 and not 1999-2000 and 2000-2001 which reflected a reduction in the annual income of the deceased.”

16. Similarly, in *Sangita Arya and Ors -Vs- Oriental Insurance Company Limited and Ors.* reported in (2020) 5 SCC 327, the Apex Court has held as under –

“13. A photocopy of the original ITR for the year 2006-07 was filed before this Court, bearing the rubber stamp of the Income Tax Department. It shows that the date of filing the ITR was 20-04-2007, which is prior to the death of the deceased which occurred on 18-06.2007. Hence, the High Court was not justified in disregarding the ITR for the year 2006-07, while assessing the income of the deceased. The appellants have also placed on record a copy of the ITR for the year 2005-06, which bears the rubber stamp of the Income Tax Department, and reveals the income of the deceased at Rs. 98,100 p.a. during the previous assessment year. As a consequence, the impugned judgment dated 22-7-2016 passed by the High Court is hereby set aside. ”

17. Similar principles were reiterated in *Oriental Insurance Co. Ltd. v. Deo Patodi & Ors.*, reported in (2009) 13 SCC 123, and *Laxmidevamma & Ors. v. Ranganath & Anr.*, reported in (2015) 4 SCC 264, wherein it was held that ITRs being statutory documents, constitute reliable proof of income unless shown to be fabricated.

18. In the present case, though the ITRs (Exhibits. 6(1) and 6(2)) were exhibited, the Tribunal completely omitted to consider them while assessing the income. The rejection of the salary certificate for want of proof could not have justified ignoring the ITRs, which are statutory records independently admissible under Section 35 of the Evidence Act, being entries in a public document.

19. Accordingly, with respect to the issue (i), this Court finds that the Tribunal did err in not considering the exhibited Income Tax Returns [Exhibits. 6(1) and 6(2)], which were statutory records relevant for determining the income. The omission to consider and evaluate such material evidence has vitiated the finding

of the Tribunal on income. Resultantly, the said issue is answered in the affirmative.

20. Now coming to the issue (ii), it appears that the exhibited ITRs though not fully elaborating the computation of gross-income in clear numerical form, do indicate that the deceased was an income tax assessee, which, by itself, shows that his annual income was significantly higher than the meager notional figure of Rs. 4,500/- per month adopted by the Tribunal.

21. It is thus apparent that the material before the Tribunal is inadequate and insufficient for a proper assessment of the income. It is further apparent that the matter requires further verification from the Income Tax Department for re-assessing the quantum of the income of the deceased, since the exhibited ITRs do not clearly indicate the gross income in quantifiable terms. Situated thus, this Court deems it proper not to undertake the reassessment of income in appellate jurisdiction. Instead, in the interest of fairness and justice and to ensure accurate computation, the matter deserves to be remanded to the Tribunal for limited verification and reassessment of income on the basis of the exhibited ITRs and such additional evidence as may be adduced by the parties. Accordingly, both the issues are answered in favour of the claimants/appellants to the extent that the exhibited ITRs should have been considered, but the quantification of income is remitted to the Tribunal for determination upon limited remand.

22. As such, while affirming the finding of liability and other conclusions of the Tribunal, this Court remands the matter to the learned Tribunal for the limited purpose of verifying and determining the actual annual income of the deceased by —

- (i) taking into account the exhibited ITRs (Exhs. 6(1) and 6(2));
- (ii) calling for clarification or certification from the concerned Income-Tax Department regarding the total income reflected therein; and
- (iii) permitting both sides to lead additional evidence, oral or documentary, including cross-examination, confined only to the issue of income.

23. Upon such verification, the Tribunal shall recompute the compensation in accordance with law, following the principles laid down in *Sarla Verma & Ors. v. DTC*, reported in (2009) 6 SCC 121 and *National Insurance Co. Ltd. v. Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680.

24. Needless to clarify that while re-computing the compensation amount, as directed above, in addition thereto, the Tribunal shall adopt the appropriate multiplier in accordance with law and the awarded interest payable shall be made effective from the date of filing of the claim petition till payment of the same.

25. The remand is confined solely to the issue of income to the extent indicated hereinabove; all other findings of the Tribunal including the rate of interest as awarded by the Tribunal shall remain undisturbed and also the findings of the

Tribunal passed in M.A.C. Case No. 2122/2012 vide judgment and order dated 15.02.2025.

26. The appeal is accordingly allowed in part. The matter is remitted to the Tribunal, to the extent indicated above, for limited verification of income and re-computation of compensation, including applying the appropriate multiplier thereof and providing the appropriate date from which the interest awarded shall commence.

27. Return the TCR, along with a copy of this order forthwith.

28. The parties are directed to appear before the learned Motor Accident Claims Tribunal No. 3, Kamrup (Metro), Guwahati on 26.11.2025 along with a certified copy of this order, without awaiting further notice. The Tribunal shall thereafter proceed with the matter from that stage and endeavor to complete the exercise, preferably within three months from the date of such appearance.