

**IN THE COURT OF MEMBER, M.A.C.T. ::: MORIGAON**  
**M.A.C Case No. 25/2016 (Death)**

U/S 166 M.V. Act

**Present : Mr. P. Das,**  
**Member, M.A.C.T.,**  
**Morigaon, Assam.**

**Claimant : Smt. Chaya Sangma**

**-Vs-**

**Opposite Parties : 1. Oriental Insurance Company Ltd.**

**Ltd.,** Policy No. 322203/31/2016/1294,  
Valid upto 29.08.2016, Insurer of the  
vehicle bearing Registration No. AS-09-  
C-1833 (Tata Winger).

**2. Sri. Pradip Sil**

Owner of the vehicle bearing  
Registration No. AS-09-C-1833 (Tata  
Winger).

**Appearance of the Parties**

Advocate for Claimant : Mr. R. Amin, Ld. Advocate.

Advocate for the O. P. No.1 : Mr. H.K. Nath, Ld. Advocate.

Advocate for the O. P. No.2 : Mr. H. Rahman, Ld. Advocate.

Date of Argument : 09.05.2019.

Date of Judgment : 03.06.2019.

**J U D G M E N T**

**1.** The instant claim petition has been filed by the claimant Chaya Sangma u/s 166 of the M.V. Act, 1988, seeking compensation for the death of her mother in a

road accident on 18.10.2015, in the district of Karbi Anglong, Assam. The claimant is temporarily stated to be the resident of Nakhula, Jagiroad, in the district of Morigaon. The Oriental Insurance Company Ltd., respondent no. 1 is stated to be the Insurer of the said offending vehicle. The respondent no. 2, Sh. Pradip Sil is stated to be the owner of the offending vehicle bearing Registration No. AS-09-C-1833.

**2.** Upon issuance of notices, the respondent no. 1 and 2 appeared and filed their respective written statements.

**3.** On the basis of the pleadings of the parties, following issues were framed ;

- i) Whether the accident took place on 18.10.2015, at about 6.30 AM, at Indiranagar under Baithalansu Police Station, Karbi Anglong due to rash and negligent driving on the part of the driver of the vehicle bearing Registration No. AS-09-C-1833?
- ii) Whether Muni Sangma died in the said accident that took place on 18.10.2015, at about 6.30 AM, at Indiranagar under Baithalansu Police Station, Karbi Anglong ?
- iii) Whether claimant is entitled to get compensation, if so, by whom it is payable and to what extent?

**4.** At the proceeding, the claimant no. 1, Ms. Chaya Sangma, stated to be the daughter of the deceased adduced evidence as PW-1. As part of her evidence, she exhibited various documents. PW-1 was cross-examined on behalf of the Insurer. The respondents did not adduce any evidence.

**5.** In her evidence on affidavit, PW-1 stated that on 18.10.2015, at 6.30 AM, deceased Muni Sangma @ Moni Sangma was going towards Donkamukam from her house situated at Indira Nagar on foot on her own side and at that time, one vehicle bearing Registration No. AS-09-C-1833 (Tata Winger) coming in a rash and

negligent manner with high speed hit her mother, resulting into serious injuries and that she died on the spot. That, her deceased mother left behind herself and her brother Raj Kumar Sangma at the time of her death.

As part of her evidence, PW-1 has exhibited following documents:

- i) Exhibit – 1 : Accident Information Report.
- ii) Exhibit – 2 : Post-mortem report.
- iii) Exhibit – 3 : FIR & Ejahar.
- iv) Exhibit – 4 : Charge-sheet.
- v) Exhibit – 5 : MVI Report.
- vi) Exhibit – 6 : Seizure list.
- vii) Exhibit – 7 & 8 : Income certificate issued by the Circle Officer.
- viii) Exhibit – 9 : Gaonburha Certificate regarding profession.
- ix) Exhibit – 10 : Gaonburha Certificate.

In his cross-examination, PW-1 has reiterated that her mother left behind herself and her elder brother who is married and that the claimant got married prior to the death of her mother. PW-1 however denied the suggestion that she and her brother were not dependent on her mother's income. PW-1 also stated that she was 29 years old.

**6.** The Accident Information Report (Form- 54), Ext. 1 indicates the said details of the accident including the name of Muni Sangma as deceased and the aforesaid registration number of the vehicle. I have perused Exhibit 3, the ejahar and FIR lodged in connection with the case containing details of the accident and also Exhibit 2, the Post-mortem report of the deceased. With regard to the accident, Baithalansu PS Case No. 74/15, was registered which after investigation resulted in charge sheet u/s 279/304(A) IPC against Sri Munsing Ronghang, the driver of the offending vehicle, the same has been exhibited as Ext.4.

**7.** On the basis of the aforesaid materials on record, I come to the considered finding that on 18.10.2015, vehicle bearing Registration No. AS-09-C-1833, was involved in the accident, at Indiranagar under Baithalangu Police Station in which Muni Sangma expired and that the said accident took place due to rash and negligent driving of the driver. Issue nos. 1 and 2 are decided accordingly.

**8.** Now, the question as to what would be the quantum of compensation awarded to the claimant and who shall be liable to pay the compensation.

**9.** In her evidence, the claimant/PW-1 stated that deceased was aged 50 years at the time of the accident, but, in the Post-mortem report her age is indicated as 60 years. In this regard, the claimant did not furnish any age proof certificate of her deceased mother.

**10.** As per the evidence of the claimant's side, the deceased left behind herself (claimant) and her elder brother. However, in the cross-examination, PW-1 stated that the claimant and her elder brother are married. The claimant/PW-1 also stated that she is having five children and all are dependent on her. Though, the claimant as PW-1 has stated that in her evidence that she and her elder brother were dependent on the income of her deceased mother, but in view of the aforesaid other evidence on record, I come to the considered finding that the claimant was not financially dependent on the income of her deceased mother at the time of her death in the instant case. Therefore, the dependency fails in the instant case and no compensation can be awarded towards the head of loss of dependency.

**11.** It is well settled that if a claimant is the legal heir of the deceased of a road accident, even if dependency is not there, the said claimant would be entitled to compensation under statutory heads and towards the other heads in terms of the judgments of the Hon'ble Supreme Court in this regard.

**12.** Accordingly, in the instant case, the claimant is awarded an amount of Rs. 50,000/- towards the head of no fault liability U/s 140 of the MV Act.

**13.** Further, as per the settled position laid down by the Hon'ble Supreme Court in the case of *National Insurance Co. Ltd. Vs. Pranay Sethi (2017) 16 SCC 680*, Rs. 15,000/- each is awarded towards the heads of loss of estate and funeral expenses. An amount of Rs. 40,000/- is also awarded to the claimant and her brother towards parental consortium in terms of the principles laid down by the Hon'ble Supreme Court in *Magma General Insurance Company Ltd. Vs Nanu Ram, 2018 SCC online SC 1546*. Therefore, the total amount towards consortium would be Rs. 80,000/-. Finally, an amount of Rs. 10,000/- is awarded towards litigation costs.

**14.** The compensation awarded to the claimant can be summarized as follows:-

(i) No fault liability	: Rs. 50,000/-
(ii) Parental Consortium	: Rs. 80,000/-
(iii) Funeral expenses	: Rs. 15,000/-
(iv) Loss of Estate	: Rs. 15,000/-
(v) Cost of litigation	: Rs. 10,000/-

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Total : Rs. 1,70,000/-

**(Rupees One lakh Seventy thousand only).**

**15.** In the written statement of the owner of the offending vehicle, it is indicated that on the date of the accident the offending vehicle AS-09-C-1833 was duly insured by the respondent No. 1 vide Insurance Policy No. 322203/31/2016/1294 valid upto 29.08.2016. Perusal of the Insurance Policy also indicates the name of the owner as Pradip Sil and the aforesaid details. The number of the said Insurance Policy is also mentioned in the Form-54 i.e. Accident Information Report.

**16.** On the basis of the aforesaid materials, it is clear that on the date of the accident i.e. 18.10.2015, the offending vehicle bearing registration No. AS-09-C-1833 was covered by a valid Insurance Policy issued by the respondent No.1. In view of the same, the respondent No. 1 would be liable to indemnify the owner of

the offending vehicle and thereby pay the awarded compensation amount to the claimant.

**17.** Under the above facts and circumstances and in view of the above discussion, the claimant is hereby awarded a total compensation of Rs. 1,70,000/- (Rupees One lakh seventy thousand only) along with interest @ 7.5% per annum payable from the date of claim petition to be paid by the respondent No. 1/ Oriental Insurance Company Ltd./Insurer of the offending vehicle, within a period of three months.

**18.** Send a copy of this Judgment and Order to the opposite party No. 1 (Oriental Insurance Company Ltd. Ltd.) for doing needful at their end, in the light of the directions passed in this judgment and order.

Judgment is delivered in the open Court on this 3<sup>rd</sup> day of June, 2019, under my hand and seal.

Dictated and corrected by me

Member, MACT  
Morigaon, Assam.

Member, MACT,  
Morigaon, Assam

**APPENDIX****A. Claimant's witnesses :**

PW-1 : Smt. Chaya Sangma.

**B. Opposite parties witnesses :**

Nil.

**C. Claimant's exhibits :**

- A. Exhibit – 1 : Accident Information Report.
- B. Exhibit – 2 : Post-mortem report.
- C. Exhibit – 3 : FIR & Ejahar.
- D. Exhibit – 4 : Charge-sheet.
- E. Exhibit – 5 : MVI Report.
- F. Exhibit – 6 : Seizure list.
- G. Exhibit – 7 & 8 : Income certificate issued by the Circle Officer.
- H. Exhibit – 9 : Gaonburha Certificate regarding profession.
- I. Exhibit – 10 : Gaonburha Certificate.

**D. Opposite Party's Exhibits :**

Nil.

Member, M.A.C.T.  
Morigaon, Assam.

**MAC (Death) Case No. 25/2016****03.06.2019:**

The claimant and the insurer are represented by their respective learned counsels.

Judgment is ready and pronounced in the open Court.

The claimant is found to be entitled to a compensation of Rs. 1,70,000/- (Rupees One lakh seventy thousand only) along with interest @ 7.5% per annum payable from the date of claim petition to be paid by the respondent No. 1/ Oriental Insurance Company Ltd./Insurer of the offending vehicle, within a period of three months.

Send a copy of this Judgment and order to the opposite party No. 1 (Oriental Insurance Company Ltd. Ltd.) for doing the needful at their end.

The instant MAC Case stands disposed of on the aforesaid terms.

Member, MACT  
Morigaon, Assam.