

**HIGH COURT OF TRIPURA  
AGARTALA  
MAC APP NO.29 OF 2023**

The Oriental Insurance Company Ltd.

..... **Appellant(s)**

Vs.

Smt. Shilpi Sharma and ors.

..... **Respondent(s)**

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For the Appellant(s) : Mr. Biswanath Majumder, Advocate.

For the Respondent(s) : None.

Date of hearing and delivery of  
Judgment & Order : 11.10.2023.

Whether fit for reporting : YES/NO.

**HON'BLE MR JUSTICE T. AMARNATH GOUD**

**JUDGMENT AND ORDER(ORAL)**

This present appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 along with its up-to-date amendments against the impugned judgment and award dated 05.08.2022 passed by the learned Member, Motor Accident Claim Tribunal, Court No.4, West Tripura, Agartala rendered in case No.T.S.(MAC) No.48 of 2019.

2. The brief fact of this case is that the appellant herein i.e., Oriental Insurance Company Ltd. has been impleaded in case No.T.S.(MAC)48 of 2019, as an insurer of the offending vehicle No.TR-01-G-1889(Truck) in the claim petition preferred by the claimant-respondents before the learned Motor Accident Claims

Tribunal Court No.4, West Tripura, Agartala on account of the death of the victim i.e., Nirmal Goswami in a vehicular accident.

3. The Insurance Company by filing a written statement contested the said claim petition by stating that the claimants were not entitled to any relief from the learned Tribunal and other respondents. The other respondents also contested the claim proceeding by filing a written statement.

4. After completion of the pleadings as well as having heard the arguments canvassed by the respective parties, the learned Tribunal, on 05.08.2022 has allowed the claim petition by awarding Rs.36,74,944/- along with interest @ 9% from the date of presentation of claimant petition i.e., on 07.03.2019 till payment, by fastening the liability for payment of the said compensation upon the appellant-Insurance Company herein.

5. Being aggrieved by the said award dated 05.09.2022, the appellant-Insurance Company has filed this present appeal seeking the following reliefs:-

*" i. Admit this appeal.*

*ii. Issue Notice upon the Respondents.*

*iii. Call for the records of the case from the Ld. Member, Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in Case No.T.S.(MAC)48 of 2019.*

*iv. Stay the operation of the impugned Judgment and award dated 05.08.2022, passed by the Ld.Member, Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in Case No.T.S.(MAC)48 of 2019.*

*v. After hearing the parties at length, be pleased enough to dismiss/set aside/quash the impugned judgment dated 05.08.2022, passed by the Ld. Member, Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in Case No.T.S.(MAC)48 of 2019.*

*vi. And/or pass any other appropriate order/orders, direction/directions as your lordship may deem fit and proper."*

6. Heard Mr. B. Majumder, learned counsel appearing for the appellant. None appears for the respondents.

7. Mr. B. Majumder, learned counsel appearing for the appellant submits that there was a direct collision between the two vehicles i.e., Alto Car bearing No.TR-02-E-0231 and the Truck bearing No.TR-01-G-1889 but neither the owner, the driver, nor the insurer of the Alto Car has been made party in this claim proceeding. So, the claim proceeding suffers from non-joinder/ mis-joinder of necessary parties. The owner of the offending vehicle which was made a party to this case deposed that he did not know the date and time of the accident and also who drove the vehicle. Even though driver has been made party to his case but he did not turn up to contest the same. The learned Tribunal below has perversely determined the monthly income of the deceased at Rs.25,000/- only per month, at the time of the accident. The Tribunal below while awarding the amount has fixed rate of interest @ 9% per annum from the date of presentation of the claimant petition i.e., on 07.03.2019 till payment, which is on the higher side.

8. Heard and perused the evidence on record.

9. The learned Tribunal while passing the award dated 05.08.2022 has properly appreciated all the evidence. While determining the monthly income of the deceased, the learned Tribunal took into the record the evidence, from which, it is

established that the deceased used to own a garment shop/establishment styled as "*Goswami Bastrlaya*". This Court is satisfied with the findings and evidence laid down by the learned Tribunal below while assessing the income of the deceased at Rs.25,000/- per month and the same is not interfered with.

10. The learned Tribunal below, after corroborating the evidence of PW-1 and also in terms of exbt-1 i.e. certified copies of the FIR, ejahar and seizure list, exbt-2, series i.e., the charge-sheet and exbt-3, series i.e., the post mortem report of the deceased has established the fact that the victim-deceased died due to the rash and negligent driving of the truck bearing No.TR.01.-G-1889 by its driver on 25.02.2018.

11. Now the only point that falls for consideration before this Court is whether fixing the rate of interest @ 9% per annum while passing the award is on the higher side or not. According to this Court, considering the present rate of interest, awarding interest @ 9% per annum on the awarded amount seems to be excessive. As such keeping in par with the rate of interest leveled on other similarly situated award which was adjudicated by this Court, 7.5% rate of interest per annum is fixed on the awarded amount.

12. Accordingly, this present appeal is allowed to the extent indicated above. The rest of the award dated 05.08.2022 is confirmed and the same is not interfered with.

13. The appellant-Insurance Company shall deposit the compensation amount within a period of 2(two) months from today. On such deposit, the respondent-claimants are at liberty to withdraw the same as per procedure unconditionally.

14. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

**JUDGE**

suhanjit

RAJKUMAR  
SUHANJIT  
SINGHA

Digitally signed by  
RAJKUMAR  
SUHANJIT SINGHA  
Date: 2023.10.13  
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