

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP NO.35 OF 2021**

Sri Sujit Barman,
S/o. Sri Sudhir Ranjan Barman,
Of Harish Thakur Road, Krishnanagar,
P.O.- Agartala.
P.S.- West Agartala.
District- West Tripura.
Pin-799001

.....**Claimant-Appellant(s).**

Vs.

1. Md. Alkash Miah,
S/o Late Dudu Miah,
Of Vill- Durgapur, Sonamura,
P.S. Sonamura, District- Sepahijala,
Pin-799181
(Owner of the Vehicle No.TR-01-C-4484, Max Jeep)

2. The Branch Manager,
Cholamandalam General Insurance Company Limited,
Registered Head Office at Dara House,
2nd Floor No.2, N.S.C.F. Bose Road,
Chennai-600001.
(Insurer of the vehicle No.TR-01-C-4484, Max Jeep)

3. Sri Satyam Ghosh,
S/o Late Suban Ghosh,
Resident of village- Thakurmura, Khedabari,
Sonamura, P.O.- Sonamura,
District- Sepahijala,
Pin-799181.
(Owner of the vehicle No.TR-01-D-4099, Max Jeep)

4. The Divisional Manager,
Bajaj Allianz General Insurance Company Limited,
Registered Office at GE, Plaza,
Airport Road, Yerwada,
Pune-411006.
(Insurer of the vehicle No.TR-01-D-4099, Max Jeep)

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

For the Appellant(s) : Mr. T.D. Majumder, Sr. Advocate.
Mr. T. Halam, Advocate.

For the Respondent(s) : Mr. K. De, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 22.02.2023

Whether fit for reporting : YES/NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

This instant appeal is filed against the Judgment and award dated 12.04.2021 passed by the learned Member, Motor Accident Claims Tribunal, West Tripura, Agartala(Tribunal No.2) in T.S.(MAC) No.163 of 2015 for enhancement of award.

2. Brief facts leading to this case are that on 16.11.2014 at about 11-00 hours the claimant appellant boarded a Max jeep bearing registration No. TR-01-C-4484 from Nagerjala towards Sonamura and when it reached at North Charilam(Puranbari) at about 11-45 a.m., another Max jeep bearing registration No. TR-01-D-4099 which was coming from the opposite direction in a very rash and negligent manner collided with the vehicle of the claimant appellant resulting which the claimant-appellant received grievous multiple fracture as well as head injuries and became

unconscious. Immediately after the accident claimant appellant was shifted to Bishalgarh Hospital from where he was referred to AGMC & GBP Hospital Agartala. On the same day and considering the nature of the injuries, the appellant was again referred to ILS Hospital, Agartala where he underwent treatment as an indoor patient for about ten days and a major operation was done on his chest on 18.11.2014. Thereafter, he was taken to Medica Super Specialty Hospital, Kolkata where he was admitted till 11.12.2014 for his treatment. The claimant appellant also took treatment from the Institute of Neuro Sciences, Kolkata where also he was admitted as an indoor patient and was discharged from there on 29.12.2014. In this connection a specific case vide Bishalgarh PS case No. 164/2016, U/S 279/338 was also registered. Thereafter the claimant as petitioner filed a title suit bearing No. T.S.(MAC)163 of 2015 before the Member, Motor Accidents Claims Tribunal, West Tripura Agartala claiming compensation. The claimant petitioner therein claimed to be a govt. employee by profession and thereby quantified his claim to the tune of Rs. 35,00,000/-.

3. The O.P. Nos.1 and 3, i.e., the owners of the offending vehicles did not file any written statement in this case. The O.P. Nos.2 and 4 i.e., the insurers of the offending

vehicles through their written statement denied all the averments made by the claimant petitioner.

4. The Court below with the view to decide the claim of the claimant-petitioner framed the following issues:-

"I) *Whether the claimant petitioner namely, Sujit Barman sustained any kind of injury in a vehicular accident occurred on 16.11.2014 at about 11.45 hours at Charilam Puranbai on Bishramganj Agartala Road under Bishalgarh Police Station due to rash and negligent driving of the driver of the Tripper vehicle bearing No. TR 01 D 4099(Max jeep) ?*

II) *Whether the claimant is entitled to get any compensation due to the said injury ,if so, what would be quantum of the compensation and who shall be held liable to pay of the same ?*

III) *What other relief/reliefs the parties entitled to ?*

5. The Court below after thoroughly examining the evidence on record including the Exbt-1 i.e. the copy of the FIR, seizure list, injury report, and final/form report held that the accident occurred due to rash and negligent driving of the driver of both the offending vehicles. On the point of Issue No.2, the Court below after examining the documents, awarded Rs.21,00,000/- towards the cost of treatment, Rs.70,000/- towards traveling expenses, Rs.50,000/- towards loss of income, Rs.2,00,000/- towards pain and sufferings, a sum of Rs.10,000/- towards litigation cost, Rs.25,000/- towards the cost of medical attendant and further Rs.1,00,000/- towards future treatment. The total computation of the compensation came to Rs. 21,00,000/- + Rs. 70,000/- + Rs.50,000+ Rs.

2,00,000/- + Rs. 10,000/- + 25,000/- + Rs. 1,00,000 =
Rs.25,55,000/-. The operative portion of or award dated
12.04.2021 is as under:-

"O R D E R

In the result, claim is awarded in following terms :-

*Claimant petitioner is entitled to get the award of **Rs.25,55,000 /-(Rupees twenty five lacs fifty five thousand)** only with 9% Simple interest per annum from the date of registration of claim i.e, w.e.f. 24.06.2015 till the date of realization thereof.*

The OP No.2 being the insurer of OP No.1 shall satisfy the 50% of the award and remaining 50% shall be borne by the OP No.4. The OP No.4 shall be at liberty to recover the amount from the owner(OP No.3).

The OP No. 2, Choramandalam General Insurance Company Limited and OP No.4, Bajaj Allianz General Insurance Co. Ltd. shall, within 30 days of the date of this award, deposit the entire amount as awarded, in favour of the Motor Accident Claims Tribunal, West Tripura, Agartala.

Supply a copy of this award free of cost to the parties by not later than 15 days from the date of the award."

6. Being aggrieved with the impugned judgment and award dated 12.04.2021, passed by the learned Member, Motor Accident Claims Tribunal, West Tripura, Agartala in Case No.T.S.(MAC)163 of 2015, the claimant-appellant herein has preferred this instant appeal and prayed for the following reliefs:-

- "i. Admit the appeal.*
- ii. Issue notice upon the opposite party-respondents.*
- iii. Call for the case records of T.S.(MAC)163 of 2015 from the Court of Ld. Member, Motor Accident Claims Tribunal, West Tripura, Agartala(Tribunal No.2).*
- iv. After hearing the parties, Your Lordships be kind enough to modify the judgment and award dated 12.03.2021 by enhancing the quantum of award as is deemed just, appropriate and proper by this Hon'ble Court."*

7. Heard Mr. T.D. Majumder, learned Sr. counsel assisted by Mr. T. Halam, learned counsel appearing for the appellant as well as Mr. K. De, learned counsel appearing for the respondents.

8. Mr. T.D. Majumder, learned Sr. counsel appearing for the appellant argued that the learned Tribunal has not considered the future medical expenses though the attending local Doctor opined that the claimant appellant has to undergo prolonged treatment for his brain injury. Learned Sr. counsel further submitted that the claimant would not be able to lead a normal life without medicine. On the other hand, Mr. K. De, learned counsel appearing for the respondents submits that the judgment and award as passed by the learned Tribunal just and proper and needs no interference.

9. Heard both sides and perused the evidence on record. The learned Tribunal after examining all the exhibited documents and on perusal of the evidence on record awarded Rs. 25,55,000/- with other statutory benefits as compensation to the claimant. The learned Tribunal while awarding the said amount has categorically given the reasoning and finding on each head of the award. Further, though P.W.-2, Dr. Debashsih Nath in his deposition opined *that without medicine*

it will not be possible on his part to lead nor life, but on the head of future treatment, the learned Tribunal awarded Rs.1,00,000/- which this Court feels is just and proper.

10. In view of the above discussion, this Court is of the view that the judgment and award dated 12.04.2021 passed in T.S.(MAC)163 of 2015 is just and proper and needs no further interference. Accordingly the same is upheld. Thus the instant appeal is dismissed.

11. Stay order, if any, stands vacated. Pending application(s), if any, also stands disposed of. Return the LCRs forthwith.

JUDGE

suhanjit



सत्यमेव जयते