

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP NO.72 OF 2022**

United India Insurance Company Ltd.

Agartala Division, R.M.S. Chowmuhani,
Agartala, Represented by its Administrative Officer,
(Insurer of vehicle No.TR-01-R-1859, Beloro, Maxi Truck)

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

Vs.

1. Sri Bimal Kumar Dhar.

2. Sri Subal Dhar.

3. Sajal Dhar.

All are sons of Late Bijoy Kumar Dhar,
Of Maharaniipur, P.O. & P.S. Teliamura,
Dist- Khowai, Tripura.

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

4. Smt. Anjali Banik(Dhar),

W/o- Late Bijoy Kumar Dhar,
Of Maharaniipur, P.O. & P.S.- Teliamura,
Dist- Khowai, Tripura(Owner of vehicle No.TR-01-R-1859,
Bolero, Maxi Truck).

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

For the Petitioner(s) : Mr. A. Gon Chowdhury, Advocate.

For the Respondent(s) : Mr. S. Lodh, Advocate.
Ms. A. Saha, Advocate.

Date of hearing and delivery of
Judgment & Order : 17.05.2023.

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 M.V. Act against the Judgment and award dated 25.02.2022 passed by the learned Motor Accident Claims Tribunal, Court No.2 Udaipur, Gomati Tripura, in case No. T.S.(MAC)09/2019.

2. The claimant respondents herein preferred a petition under Section 166 of M.V. Act before the Motor Accident Claims Tribunal, Court No.2, Gomati Tripura, stating that the deceased was proceeding towards Maharaniapur on 29.11.2016 at about 13.00 hrs by vehicle No.TR-01-R-1859(*Bolero Maxi Truck*) with loaded rice in the vehicle. At about 13.00 hrs, when the said vehicle reached near SPO camp at Singlong under Taidu Police Station, the vehicle started moving backward and the driver lost his control and jumped out of the vehicle. The vehicle fell down in the lunga with the victim and the victim sustained injuries in the vital part of his body. He was shifted to Ompi Hospital and then to GBP Hospital, where the victim was declared dead. A case was registered at Taidu P.S. vide No. 06/2016 under Section 279/304 A of IPC. He was 62 years old and was earning Rs.10,000/- per month. As a result, the legal heirs filed the claim petition.

3. The owner and Insurance Company of vehicle No.TR-01-R-1859(Bolero Maxi Truck) appeared before the learned Tribunal after getting the notice of the learned Tribunal. Both the owner and the Insurance Company filed their respective written statement along with relevant documents and adduce their evidence.

4. The learned Tribunal after considering the evidence of all the sides and the documents filed by the parties and after hearing passed the award in favour of the claimants to the tune of Rs.5,74,000/- with interest @ 6% per annum from the date of petition i.e. 28.03.2019 and directed that the award should be paid by the appellant-Insurance Company within 30 days from the date of the judgment dated 25.02.2022.

5. Being aggrieved and dissatisfied with the Judgment and award dated 25.02.2022, passed in case No. T.S(MAC)09/2019 by the learned Motor Accident Claims Tribunal, Court No.2, Gomati Tripura, the appellants herein has preferred this appeal seeking to set aside the impugned judgment and award dated 25.02.2022.

6. Heard Mr. A. Gon Chaudhury, learned counsel appearing for the appellant as well as Mr. S. Lodh, learned counsel assisted by Ms. A. Saha, learned counsel appearing for the respondents.

7. Mr. A. Gon Choudhury, learned counsel appearing for the appellant submits that the deceased was the husband of the owner of the vehicle, and the claimant-appellants herein are all majors and they have their personal income. The deceased was a passenger in the goods-carrying vehicle. In view of such facts, the claimants herein are not entitled to compensation.

8. Heard and perused the evidence on record. The learned Tribunal while deciding the present matter has framed the following issues:-

1) Whether the Bijoy Kumar Dhar received injuries in a road traffic accident on 29.11.2016 at about 13.00 hours at singlong near SPO camp under Taidu P.S. and same day succumbed to his injuries at the GBP hospital due to rash and negligent driving by driver of the vehicle bearing No.TR-91r-1859(Bolero Maxi Truck)?

2) Are the claimants entitled to be compensated under Motor Vehicles Act, 1988. If so, to what extent and who shall be liable to pay the same?"

9. The learned Court below has discussed those issues elaborately and came to the conclusion in accordance with established principles of law and this Court after going through the impugned order, does not find any reason(s)/ground(s) to interfere with the same. As such the impugned Judgment and Award dated 25.02.2022 passed in T.S.(MAC) No.09 of 2019 is upheld as the same is just and proper.

10. With the above observation and direction, this present appeal stands dismissed. Stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

