

**HIGH COURT OF TRIPURA  
AGARTALA**

**MAC.APP. No.52/2021**

Sri Ajoy Karmakar, S/O. Sri Anil Karmakar, South Charilam, P.S.-  
Bishramganj, District-Sepahijala, Tripura.

..... Appellant(s)

**V E R S U S**

1. Sri Narayan Debnath, S/O. Roycharan Debnath, Resident of Jangalia,  
Bishalgarh, P.S.-Bishalgarh, District-Sepahijala, Tripura (Owner of the  
vehicle No.TR-01-K-1872, TATA ACE).

2. IFFCO TOKIO General Insurance Company Limited, Registered office  
IFFCO Sadan C-1, District-Centre Sakot, New Delhi-110017 (Insurer of  
vehicle No.TR-01-K-1872, TATA ACE).

.....Respondent(s)

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For Appellant(s) : Mr. Samar Das, Advocate.

For Respondent(s) : None.

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**HON'BLE THE CHIEF JUSTICE (ACTING)**

Date of hearing and judgment : **09<sup>th</sup> January, 2023.**

Whether fit for reporting : **NO.**

**JUDGMENT & ORDER (ORAL)**

This appeal by the claimant is directed against the award dated  
01-09-2020 delivered by the learned Motor Accident Claims Tribunal, Court  
No.1, West Tripura, Agartala in case No. T.S.(MAC) 238 of 2015 whereby  
he awarded compensation of Rs.82,250/- to the claimant petitioner with 6%

simple interest per annum from the date of filing of the claim petition till realization thereof.

2. Brief facts of the case are as under:

The claimant petitioner filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 (M.V. Act) before the Motor Accident Claims Tribunal for compensation due to injuries sustained by him in a road traffic accident. In this claim petition, it was alleged that on 28.09.2014 at about 0630 hours while the claimant Ajoy Karmakar was proceeding towards Lalsinghmura from his house by riding a motorbike bearing registration No.TR-01-H-8206 (Super Splendor) and reached at Meltamura near Nandan Kanan J.B. School, at that time the offending vehicle bearing registration No.TR-01-K-1872 (Tata ACE) coming from opposite direction being driven rashly and negligently dashed his motorbike resulting which he fell down on the road and sustained grievous injuries on his person. Immediately thereafter, he was brought to Bishalgarh Hospital wherefrom he was referred to TMC Hospital, Hapania wherein he was treated w.e.f. 28.09.2014 to 05.10.2014 and thereafter, he got treatment at ILS Hospital on 06.10.2014. He also continued his treatment by private doctors. In this connection, a specific police case vide Bishramganj PS Case No.76 of 2014 under sections 279/338 of IPC was also registered. The claimant, therefore,

approached the Claims Tribunal seeking compensation to the tune of Rs.42,32,000/- due to the injuries sustained. The Claims Tribunal framed issues and after appreciating all evidence and documents produced on record awarded a compensation of Rs.82,250/- in favour of the claimant with 6% interest from the date of filing of the claim petition. Being aggrieved by the award dated 01.09.2020, the claimant petitioner preferred the instant appeal for enhancement of compensation. Hence, this case.

3. Heard Mr. Samar Das, learned counsel appearing for the appellant-claimant.

4. Mr. Samar Das, learned counsel appearing for the appellant-claimant, contends that the learned Claims Tribunal without appreciating the pleadings and evidence on record committed an error while passing the award. He also contends that according to the claimant petitioner, he used to earn Rs.15,000/- per month as a businessman from his shop. But the learned Tribunal assessed the income of the deceased at Rs.6,250/- per month which is on the lower side and required to be increased. Counsel further contends that learned Claims Tribunal did not appreciate some of the cash memos while calculating the cost of treatment and came to an erroneous finding

which needs to be rectified. He, therefore, prays to enhance the amount of compensation by modifying the impugned award dated 01.09.2020.

5. Having considered the submission of learned counsel for the appellant-claimant, this Court is of the considered view that the learned Claims Tribunal has assessed the income of the deceased at Rs.6,250/- simply on guess work observing that a small businessman or a day labourer could earn Rs.250/- per day during that period. But during the period a young businessman could easily earn Rs.400-500/- per day. So, the income needs to be increased and in my opinion, it would be just and fair to enhance the income of the claimant by Rs.5,000/- per month, i.e. **Rs.11,250/-** per month considering the fact that the claimant is a young bachelor. It is also apparent on evidence on record that the claimant after discharge from TMC Hospital also attended ILS Hospital on several occasions and thereafter, he also continued his treatment by private doctors. So, in my considered opinion, compensation of Rs.36,000/- towards cost of treatment is on the lower side and needs to be enhanced. In that view of the matter, I think that it will be appropriate to increase the amount by Rs.7,000/- towards medical bills and award compensation of **Rs.43,000/-** towards the head of cost of treatment and accordingly, proceed to reassess the appropriate compensation afresh as follows:

- (i) Cost of treatment :-Rs.(36,000 + 7,000)=**Rs.43,000/-**.
- (ii) Monthly income of the claimant :- Rs.(6,250 + 5,000)=**Rs.11,250/-**.
- (iii) In addition thereto, as awarded by the learned Tribunal, the claimant is held entitled to **Rs.40,000/-** for pain and sufferings.

Therefore, the total compensation works out to Rs.(43,000 + 11,250 + 40,000)=**Rs.94,250/-**.

6. Accordingly, the award of the learned Tribunal is modified and the compensation is enhanced from **Rs.82,250/-** to **Rs.94,250/-**, i.e. by **Rs.12,000/-**. On the amount of compensation so awarded, the claimant shall also be entitled to interest @ 6% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount. The rest of the direction with regard to liability for payment of compensation passed by the learned Tribunal will remain the same. In view of above, the appeal of the claimant is partly allowed and disposed of to the extent as indicated above.

7. Send down the lower court records forthwith.

Pending application(s), if any, also stands disposed of.

**CHIEF JUSTICE (ACTING)**

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