

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.21 OF 2023**

The United Insurance Co. Ltd.

.....Appellant(s)

Versus

Smt. Shantanu Majumder(Das) and ors.

.....Respondent(s)

For the Appellant(s) : Mr. P. Gautam, Advocate.

For the Respondent(s) : Ms. Sarama Deb, Advocate.

Date of hearing and delivery of
Judgment & Order : 12.09.2024

Whether fit for reporting : NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

J U D G M E N T & O R D E R(ORAL)

This appeal has been filed against the impugned Judgment and Award dated 22.08.2022 passed by the learned Motor Accident Claims Tribunal No.2, West Tripura, Agartala, in case No.T.S.(Mac)199 of 2019.

2. Brief facts leading to this case is that on 16.01.2019, one Kishore Kumar Sukladas was proceeding towards Agartala from Teliamura by boarding a Mini Bus bearing registration No. TR-01-A-1490 which capsized from the main road in a turning at Narengbari on NH8 Assam-Agartala Road,

resultantly, the said Kishore Kumar Sukladas fell down on the road and sustained multiple grievous injuries and died on the spot. Immediately after the accident, the deceased was taken to Teliamura Sub-Divisional Hospital where the attending doctor declared him as '*brought dead*'. In this connection, Jirania PS Case No. 006 of 2019 under Section 279/337/338/304-A of IPC was registered. Claimants petitioners, thereafter, filed claim petition to the tune of Rs.30,00,000/-.

3. After hearing both the parties and perusing the evidence on record, learned Tribunal vide impugned Judgment and Award dated 22.08.2022 fastened the entire liability of compensation of Rs.22,63,828/- against the appellant-Insurance Company along with 9% interest per annum from the date of filing of the claim petition and directed the appellant-Insurance Company to satisfy the awarded amount within one month from the date of Judgment and Award dated 22.08.2022.

4. Aggrieved thereby, the appellant-Insurance company has filed this appeal.

5. Heard Mr. P. Gautam, learned counsel appearing for the appellant-Insurance Company, and Ms. S. Deb, learned counsel appearing for respondent No.4.

6. Mr. P. Gautam, learned counsel appearing for the appellant-Insurance Company submitted that learned Tribunal committed an error in awarding Rs.15,000/- per month as the monthly income of the deceased as he was an assistant driver which falls under the category of an unskilled labour. Further, no definite proof of income has been adduced before the learned Tribunal to establish the monthly income of the deceased. The learned Tribunal also erred in imposing 9% interest on the awarded amount as the same is on the higher side.

7. Heard and perused the evidence on record.

8. It is seen from the record that before the demise, the deceased person was engaged as an assistant driver which according to this Court falls under the category of skilled labour. However, the award of Rs.15,000/- per month as monthly income of the deceased is on the higher side and the same is not in consonance with the Notification of this High Court dated 4th August 2023, wherein, Rs.12,000/- per month as has been fixed as monthly income of a skilled labour. Accordingly, in the terms of the said notification, the monthly income of the deceased is assessed at Rs.12,000/- per month. Further, this Court has been fixing an interest rate of 7.5 % interest per annum as norms in such cases and as such to maintain uniformity, this Court is fixing

7.5% simple interest per annum to the awarded amount instead of 9% simple interest per annum.

9. So, in terms of the above modification, the Award stands thus:-

(I) Income per month = Rs.12,000/- only.

(II) 25% of above to be added as future prospect:- Rs.3,000/- only.

(III) Total of SI Nos. (I) and (II) above comes to Rs.12,000/- + Rs. 3000/- Rs.15,000/- only.

(IV) one fourth (1/4) of above to be deducted as personal and living expenses of deceased:- Rs.15,000/- minus Rs.3,750/- = Rs.11,250/- only.

(V) compensation after applying multiplier of 13:- Rs. 11,250 x 12 x 13 = 17,55,000/-only.

(VI) Loss of Estate = Rs.15,000/-only.

(VII) Funeral expenses = Rs.15,000/- only.

(VIII) Loss of consortium=Rs. 40,000/- only.

Thus, total compensation stands at Rs.17,55,000/-+ 15,000/- +15,000/- + 40,000/- Rs.18,25,000/- only.

10. Apart from the modification as stated above, the rest of the Award as passed by the learned Tribunal below dated 22.08.2022 shall remain unchanged.

11. Accordingly, this present appeal stands allowed to the extent indicated above and thus disposed of. As a sequel,

stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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