

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.20 of 2023

The Oriental Insurance Company Limited

..... Appellant(s)

Versus

Smt. Doli Chakraborty and another

..... Respondent(s)

For Appellant(s) : Mr. PS Roy, Advocate.

For Respondent(s) : Ms. S. Deb (Gupta), Advocate.

Date of hearing and
delivery of judgment & Order : 16.08.2024

Whether fit for reporting : Yes/No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment and order (Oral)

The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 19.09.2022 passed by the learned Motor Accident Claims Tribunal, Dhalai Judicial District, Ambassa Tripura passed in T.S.(MAC) 14 of 2021.

[2] The learned Tribunal after hearing the parties, vide judgment and award dated 19.09.2022 disposed the case of the claimant in the following manner:

"....14(b). Now, in view of the aforesaid principles of law, I proceed to calculate the appropriate compensation in the present case as under :-

(I) Income per month = Rs. 18,000/- only.

(II) 40% of above to be added as future prospect :- Rs.7,200/- only.

(III) The sum total of (I) and (II) works at :- Rs. 25,200/- only.

(IV) Fifty percent (50%) of above to be deducted as personal and

living expenses of deceased :- Rs.25,200/- minus Rs. 12,600/- = Rs. 12,600/- only.

(V) compensation after applying multiplier of 17 :- Rs. 12,600/- x

12 x 17 = Rs. 25,70,400/- only.

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

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

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

(IX) Loss of love and affection for the mother- Rs. 1,00,000/-only.

14(c). Thus, total compensation stands at Rs.25,70,400/- + Rs. 40,000/- + Rs. 15,000/- + Rs. 15,000/- + Rs.1,00,000/- = Rs. 27,40,400/- only.

15. Now coming to the question of liability, it appears that the Opposite Party No. 1 being the owner of the offending vehicle bearing registration No. TR03-F-1670 (Bolero Maxi Truck) claimed that his vehicle was insured with the OP No.3 (The Oriental Insurance Company Ltd., Bishalgarh Branch, District- Sepahijala, Tripura) vide policy No. 322791/31/2018/2147 covering the period from 12.12.2017 to 11.12.2018. In support of such claim he proved the policy of insurance [Exhibit- B (as a whole)]. It is also not the case of the OP No. 3 that the vehicle was not insured with them. It is, therefore, held that the OP No. 3 being the insurer of the offending vehicle is liable to satisfy the award. Issues under consideration accordingly stands answered in affirmative.

16. O R D E R

Resultantly, the application under Section 166 of the Motor Vehicles Act, 1988 filed by the claimant-petitioner is allowed on contest.

Claimant petitioner is entitled to get the award of Rs. 27,40,400/- (rupees twenty seven lacs forty thousand four hundred) only with 9% Simple interest per annum from the date of registration of claim i.e, w.e.f. 29.11.2021 till the date of realization thereof.

The entire awarded amount shall be paid to the claimant petitioner directly to her individual bank account.

The OP No. 3, i.e., The Oriental Insurance Company Ltd., Bishalgarh Branch, District- Sepahijala, Tripura shall deposit the awarded amount along with interest thereon within one month to this Tribunal.

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

The case stands disposed of on contest....."

[3] Being aggrieved by the aforesaid impugned judgment and award dated 19.09.2022, the appellant Insurance company has preferred the instant appeal.

[4] Mr. PS Roy, learned counsel appearing for the appellant submits that the learned Tribunal below has most illegally and arbitrarily considered and assessed the monthly income at of Rs.18,000/- per month which is very high and the claimant had not submitted any documentary evidence regarding income of the deceased. It is also submitted on behalf of the appellant that learned Tribunal below allowed

interest on the awarded amount @ 9% per annum from the date of registration of the claim petition to the claimant respondent within one month from the date of delivery of judgment, which is also on the higher side. He, therefore, urges this Court to set aside the impugned award passed by the learned Tribunal below.

[5] On the contrary, Ms. S. Deb (Gupta), learned counsel appearing for the claimant-respondent opposes the submission made by the learned counsel for the appellant and contends that the award passed by the learned Tribunal is just and proper and needs no further interference.

[6] On perusal of record, it is seen that learned Tribunal below has fixed the notional income of the deceased at Rs.18,000/- per month without any documentary evidence. Since, the deceased was working as a skilled worker and no documentary proof of his income is available, this Court is of the view that the notional monthly income of the deceased be fixed at Rs.12,000/- per month following the Notification dated 4th August, 2023 issued by the Registry of this Court.

Now, if the notional income of the deceased be considered as Rs.12,000/- per month, then the compensation awarded to the claimant respondent stands as under:

RE-CALCULATION

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

(II) 40% of above to be added as future prospect :- Rs.4,800/- only.

(III) The sum total of (I) and (II) works at :- Rs. 16,800/- only.

(IV) Fifty percent (50%) of above to be deducted as personal and living expenses of deceased :- [Rs.16,800/- minus Rs. 8,400/-]= Rs. 8,400/- only.

(V) Compensation after applying multiplier of 17 :- Rs. 8,400/- x 12 x 17 = Rs. 17,13,600/- only.

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

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

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

(IX) Loss of love and affection for the mother- Rs. 1,00,000/-only.

Thus, total compensation stands at Rs. 17,13,600/- + Rs. 40,000/- + Rs. 15,000/- + Rs. 15,000/- + Rs.1,00,000/- = **Rs. 18,83,600/- only.**

[7] In view of the above, the compensation to be awarded to the claimant stands at **Rs.18,83,600/- (Eighteen lakh eighty-three thousand six hundred only)**. It is further observed that the interest imposed by the learned tribunal @9% per annum, is obviously on the higher side. This Court in all matters is fixing 7.5% per annum interest to maintain uniformity while comparing the bank rate of interest which is also much less. Consequently, the claimant(s) would be entitled to compensation of **Rs.18,83,600/- only** along with interest @ **7.5% per annum** instead of 9% per annum as fixed by the learned tribunal with effect from the date of presentation of the claim petition till the date of realization within one month.

Apart from the observation as indicated above, all other aspects of the impugned judgment and award passed by the learned Tribunal shall remain unaltered.

Thus, the present appeal stands allowed to the extent as indicated above. As a sequel, miscellaneous application(s) pending, if any, shall stand closed.

JUDGE



Sabyasachi G.

RAJKUMAR SUHANJIT
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