

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP NO.40 OF 2023**

United India Insurance Company Ltd.

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

Versus

Sri Parimal Banik and ors.

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

For the Petitioner(s) : Mr. R. Saha, Advocate.
Ms. R. Purukayastha, Advocate.

For the Respondent(s) : Mr. B. Saha, Advocate.

Date of hearing and delivery of
Judgment & Order : 21.06.2024

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 (O R A L)**

This present appeal has been filed against the impugned award dated 30.06.2022 passed by the learned Motor Accident Claims Tribunal, Unokoti District, Kailashahar in T.S.(MAC)01/2018 whereby the learned Tribunal below has awarded compensation of Rs.8,78,836/- with interest @ 6% per annum, to the claimant-respondents to be paid by the OP. No.3, i.e. Appellant from the date of filing of the claim petition, i.e. from 15.01.2018 within 2(two) months from 30.06.2022, failing which the OP No.3, the appellant herein shall have to pay penal interest of 9% per annum till the date of actual payment. The claimant-petitioner before the learned Tribunal below prayed for compensation of Rs.8,47,664/-.

2. The learned Tribunal below after hearing both the parties awarded the compensation to the claimant in the following terms:-

"AWARD

11. In the result, it is ordered that O.P. No. 3, the Branch Manager, United India Insurance Company Limited, Kailashahar Branch, Kailashahar, Unakoti Tripura, the Insurer of the offending vehicle bearing No. TR 02 0619 (Maruti van), shall pay the amount of compensation of Rs.8,78,836/- (Rupees eight lacs seventy eight thousand eight hundred & thirty six) with interest @ 6% per annum from the date of filing of this claim-petition, i.e., from 15-01- 2018 to the claimant-petitioner within 02(two) months from today, failing which the OP No.3 shall have to pay penal interest of 9% p.a.

till the date of actual payment.

12. Order regarding manner of disbursement of the compensation amount shall be passed as per the guidelines of the Hon'ble High Court of Tripura after payment of the awarded amount.

13. Supply copy of this award free of cost to the claimant- petitioner and OP No. 3 through their engaged learned counsels.

14. The case stands disposed of."

3. Being aggrieved and dissatisfied by the said impugned award, the appellant has filed this present appeal.

4. Heard Mr. R. Saha, learned counsel appearing for the appellant as well as Mr. B. Saha, learned counsel appearing for the respondents.

5. Mr. R. Saha, learned counsel appearing for the appellant-insurance company submits that the disability certificate of the claimant is not at all proved as the same has not been exhibited by any doctor/Member of the Medical Board and without any proof, the learned Tribunal has considered Rs.8,000/- as the monthly income of the injured way back in 2004. The learned Tribunal awarded Rs.1,00,000/- towards future medical treatment whereas the claimant has neither claimed nor proved any requirement for future treatment.

6. On the other hand, Mr. B. Saha, learned counsel appearing for the respondents submits that the award as passed by the learned Tribunal below is just and proper and no excess amount has been given. 20% permanent

disability is there in the injured due to which Rs.8,000/- has been assessed as his monthly income.

7. Heard and perused the evidence on record.

8. The matter is remanded back to the learned Tribunal below for reconsideration of the present matter on the point of disability since the disability certificate produced is dated 14.09.2017, whereas, the accident took place on 11.05.2004. Moreover, the said disability certificate is not supported by any witness and it cannot be taken as a part of the exhibit since the same is not examined and marked by the concerned doctor, and no proper reasoning is given to fix the disability by the learned Tribunal below. Further, awarding of rupees one lac towards future medical treatment and also amount on other heads which are not part of the record by way of appreciation of the evidence cannot be granted.

9. In view of the same, this Court finds that the compensation needs to be just and proper but it cannot be bonanza and be granted by way of any unjust method. So, in view of the same, the matter is remanded back to the learned Tribunal below for re-appreciating the evidence and to pass a reasoned order. Accordingly, the appeal is allowed the impugned order herein is set aside.

10. As a sequel, stay if any stands vacated. Pending application(s), if any, also stands closed.

JUDGE

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