

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.42 OF 2023**

The Oriental Insurance Company Ltd.

.....Appellant(s)

Versus

Smt. Shelly Banik & Ors.

.....Respondent(s)

For the Appellant(s)	:	Mr. P. Gautam, Advocate.
For the Respondent(s)	:	None.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
O R D E R**

14.08.2024

This present appeal has been filed under Section 173 of the M.V. Act 1988 read with section 168 of the Act, filed by the appellant, insurance company, challenging the judgment and award dated 20.08.2022, passed by the learned Motor Accident Claims Tribunal no.4, West Tripura, Agartala in case No. T.S. (MAC) 109 OF 2020.

[2] The appellant has prayed for the following reliefs:-

- i. Admit this appeal.
- ii. Call for the case records from the Learned Tribunal below;
- iii. Stay the operation of the impugned judgment and award dated 20.08.2022 passed by the Ld Motor Accidents Claims Tribunal, West Tripura, Agartala, in Case No. T.S. (MAC) 109 of 2020, and the Hon'ble High Court may kindly be pleased to direct the learned Tribunal, not to proceed with any execution proceeding bearing No. Civil (Misc) 104 of 2022 arising out of T.S. (MAC) 109 of 2020 filed by the claimant respondents in the mean time, till disposal of the present appeal.
- iv. After hearing the parties be pleased enough to set aside/quashed the impugned judgment and award dated 20.08.2022 passed by the learned Motor Accidents Claims Tribunal, West Tripura, Agartala in Case No. T.S.(MAC) 109 of 2020.

[3] Brief facts leading to this case is that on 30.01.2020 victim Rakhal Ch. Banik (now deceased) was proceeding towards Teliamura from his house riding the scooty bearing No. TR-01-AE-4829, at about 0700 hrs. after reaching near Bankumari at Baramura on Assam-Agartala Road suddenly a truck bearing No. NL-01-AA-8494 coming from opposite direction with high speed in rash and

negligent manner dashed the scooty causing multiple fatal injuries on his person. Instantly the local people shifted him to the Jirania Hospital where the attending doctor declared him dead. Thereafter, the claimant (respondents herein) being the legal representatives of deceased Rakhal Ch. Banik filed a suit in the Court below seeking compensation to the tune of Rs.80,40,000/-. It has been further contended that the accident occurred due to reckless and irresponsible driving of the offending truck by its driver. Further it was also pleaded the deceased was of the age of 54 years and being a teacher serving under the Education Department used to draw monthly salary of Rs.53,000/-.

[4] The learned Tribunal below as against the claim of Rs.80,40,000/- passed the award in favour of the claimants (respondents herein) in the following terms:-

"ORDER

In the result, claim is awarded in following terms:-

(i) Claimant petitioners are entitled to get the award of Rs.55,15,060/- (Rupees fifty five lakhs fifteen thousand and sixty) only along with 9% simple interest per annum from the date of registration of claim i.e. w.e.f. 17.07.2020 till the date of realization thereof from the O.P. No.2 the Oriental Insurance Co. Ltd.

Out of the entire amount of compensation the petitioner No.1 being the wife of the deceased shall get 60% share and rest two petitioners being the sons of the deceased shall get 20% share each.

(ii) 40% of the share of all the claimant petitioners be invested by purchasing separate Fixed Deposit Certificates from any Nationalized Bank at least for the next 5 years with a liberty to the claimant petitioners to withdraw the monthly interest from their own accounts and no loan or advance or pre-mature withdrawal shall be allowed without prior sanction of this Tribunal.

The O.P. No.2, i.e. the Oriental Insurance Co. Ltd. shall deposit the awarded amount along with interest thereon within one month from this day with 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 off on contest".

[5] Being aggrieved and dissatisfied with the judgment and award dated 20.08.2022, passed by the learned Motor Accident Claims Tribunal no.4, West Tripura, Agartala in case No. T.S. (MAC) 109 OF 2020 the present appeal has been preferred by the appellant.

[6] Heard Mr. P. Gautam, learned counsel appearing for the appellant-Insurance Company. None appears for the respondents.

[7] Mr. P. Gautam, learned counsel appearing for the appellant-Insurance Company submits before this Court that the award of compensation as passed by the learned court below is unsustainable in the eye of law and needs to be interfered with. Mr. Gautam, learned counsel further submits that 9% interest is on higher side and the same needs to be reduced.

[8] Heard and perused the evidence on record.

[9] This Court in all related matters are fixing 7.5% interest and to maintain uniformity while comparing the bank rate of interest which is also much less. Consequently, the claimants (respondents herein) would be entitled compensation as per the award passed by the learned Court below along with 7.5% interest per annum instead of 9% as awarded by the learned tribunal below, with effect from the date of presentation of the claim petition till the date of actual payment. The awarded amount shall be deposited by the insurance company within a period of one month from the date of receipt of the copy of this order, if not deposited. However, it is made clear that on such deposit, the claimant respondents are at liberty to withdraw the same unconditionally as per procedure. This Court further directs the remaining order as passed by the learned court below shall remain un-altered.

[10] In the light of the above, the present appeal stands partly allowed. As a sequel, miscellaneous application pending, if any, shall stand closed.

JUDGE

Paritosh

RAJKUMAR
SUHANJIT
SINGHA

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SUHANJIT SINGHA
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