

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.47 of 2023

1. The Branch Manager, Shriram General Insurance Co. Ltd.

..... Appellant

-VERSUS-

1. Smti. Malina Singh and 3 Others.

..... Respondents.

B_E_F_O_R_E
HON'BLE MR. JUSTICE T. AMARNATH GOUD

For Appellant(s)	:	Mr. P. K. Ghosh, Advocate.
For Respondent(s)	:	Mr. K. K. Pal, Advocate.
		Mr. P.S. Roy, Advocate.
Whether fit for reporting	:	YES/NO

Judgment and order dated 20th June, 2024

JUDGMENT & ORDER [ORAL]

Heard Mr. P. K. Ghosh, learned counsel appearing for the appellant also heard Mr. H. K. Bhowmik, learned counsel and Mr. A. Das, learned counsel appearing for the respondents.

[2] This appeal has been filed under Section-173 of the Motor Vehicles Act, 1988 against the judgment and award dated 04.08.2022 passed in connection with T.S. (MAC) 84 of 2019 by the learned Member, Motor Accident Claims Tribunal, Tribunal No.4, West Tripura, Agartala, awarding Rs.24,43,000/- only against the appellant-insurance company with 9% interest per annum from the date of filing of the claim petition till realization.

[3] The appellant has prayed for the following reliefs:

- i. Admit the appeal.
- ii. Call for the lower Court record of Case No. T.S. (MAC) 84 of 2019 from the Court of learned Motor Accident Claims Tribunal, Tribunal No.4, West Tripura, Agartala.
- iii. Issue notice upon the respondents, &
- iv. After giving an opportunity both the parties, your Lordship may be pleased to set aside the impugned judgment/award dated 04.08.2022

passed by the learned Motor Accident Claims Tribunal, Tribunal No.4, West Tripura, Agartala in case No. T.S.(MAC) 84 of 2019.

AND

v. In the meantime be pleased to stay the further proceeding of Case No. T.S.(MAC) 84 of 2019.”

[4] The facts in brief are that one Sanju Singh (now deceased), son of Sri Madhu Singh of Dhali Pukur under Bishalgarh PS, Sepahijala District was proceeding towards Bishalgarh Rawathkhala stand by riding a Motor Cycle and while he reached near Satsangha Ashram, Bishalgarh, the Truck bearing No.NL-01K-5955 coming with high speed in rash and negligent manner and dashed Sanju Singh from back side. As a result, he fell down on the road and sustained multiple injuries on his person and thereafter, he was taken to Bishalgarh Hospital wherefrom he was referred to Dr. BRAM Hospital, Hapania where the attending doctor declared him dead. Thereafter, the claimants filed a suit seeking compensation to the tune of Rs.58,60,000/- against the Insurance Company. Thereafter, after hearing both sides, the Ld. Tribunal awarded an amount of Rs.24.43,000/- along with 9% interest per annum against the appellant-insurance Company. Being aggrieved the Insurance Company-Appellant filed this appeal before your Lordship.

[5] The learned Tribunal after hearing the parties and on perusal of the material evidence on record has observed as under:

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

(i) Claimant petitioners are entitled to get the award of Rs.24,43,000/- (Rupees twenty four lakhs forty-three thousand) only along with 9% simple interest per annum from the date of registration of claim i.e. 12.04.2019 till the date of realization thereof from the O.P. No.2, the Shriram General Insurance Co. Ltd.

(ii) Out of the total compensation amount along with interest claimant petitioner No.1 i.e. the mother of the deceased shall get 60% share, claimant petitioner No.2 i.e. father of the deceased shall get 20% share and the claimant petitioner No.3 i.e. the younger brother of the deceased shall get 20% share.

(iii) 40% of the award of the claimants be invested by purchasing separate Fixed Deposit certificates in the name of claimant petitioners 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 Shriram General Insurance Company Limited shall deposit the awarded amount along with interest thereon within one month from this day with this Tribunal.”

[6] Being aggrieved by and dissatisfied with the judgment and award 04.08.2022 passed in connection with T.S. (MAC) 84 of 2019 by the learned Member, Motor Accident Claims Tribunal, Tribunal No.4, West Tripura, Agartala, the present appeal has been preferred by the appellant.

[7] The learned Court below has assessed the monthly income of the deceased as Rs.15,000/- being a mason but, this Court following the notification dated 4th August, 2023 framed by the High Court, wherein no income proof of the injured/deceased issued by the competent authority is submitted, notional wages for determination of compensation in the claim cases/appeals involving accidents which has taken place on or before 31.12.2015 shall be Rs.12,000/- for a skilled worker and in the present case accident had taken place after 2015. After taking consent from both sides and as per schedule of the notification of this Court, the income of the deceased is considered as Rs.12,000/-. Hence, Rs.15,000/- is reduced to Rs.12,000/-. Thus, the computation would be as follows:

(i) Income per month Rs.12,000 only.

(ii) 40% of above to be added as future prospect i.e. $\text{Rs.12,000} \times 40\% = 4,800/-$

(iii) Total of Sl. Nos. (i) and (ii) above comes in to $\text{Rs.12,000/-} + 4,800/- = \text{Rs. 16,800/-}$.

(iv) 50% of above to be deducted as personal and living expenses of deceased $\text{Rs.16,800} - 8,400/-$ only.

(v) Compensation after applying multiplier of 18 i.e. $\text{Rs.8,400} \times 12 \times 18 = \text{Rs.18,14,400/-}$.

[8] Thus, the loss of income of the deceased stands at $(\text{Rs. } 8,400 \times 12 \times 18 =) \text{Rs.18,14,400/-}$ instead of Rs.22,68,000/- as awarded by the learned tribunal below however, the rest of the award as awarded on different heads, shall remain unaltered.

[9] This Court in all matters is fixing 7.5% interest and to maintain uniformity while comparing the bank rate of interest which is also much less. Consequently, the claimants would be entitled

compensation as indicated above along with 7.5% interest per annum instead of 9% interest 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 claimants are at liberty to withdraw the same unconditionally.

[10] In the light of the above, the present appeal stands partly allowed. As a sequel, miscellaneous applications pending, if any, shall stand closed. Draw the decree accordingly and thereafter, send down the LCRs forthwith.

T. AMARNATH GOUD, J

A.Ghosh

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