

**HIGH COURT OF TRIPURA
AGARTALA**

Mac.app 46 of 2023

The National Insurance Company Limited

---Appellant(s)

Versus

Sri Ramen Karmakar and 2 Ors.

---Respondent(s)

For Appellant(s)	:	Mr. S. Debnath, Advocate.
For Respondent(s)	:	Mr. D. Debnath, Advocate.
Date of hearing and date of judgment and order	:	26.06.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment and Order (Oral)

Heard S. Debnath, learned counsel for the appellants also heard Mr. D. Debnath, learned counsel for the respondents.

[2] This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the impugned judgment and award dated 06.12.2022 passed by the Ld. Motor Accident Claims Tribunal, No.2, West Tripura, Agartala in case No.TS(MAC) 184 of 2019.

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

- (i) *Admit the appeal;*
- (ii) *Call for the case records from the Learned Tribunal below;*
- (iii) *Stay the operation of the impugned judgment and award dated 06.12.2022 passed by the Ld. Motor Accident Claim Tribunal No.2, West Tripura, Agartala in case No. TS(MAC) 184 of 2019 till final disposal of the present appeal preferred by the appellant-ins.co.*
- (iv) *After hearing the parties be pleased enough to set aside/quash the impugned judgment and award dated 06.12.2022 passed by the Ld. Motor Accident Claim Tribunal No.2 West Tripura, Agartala in case No.TS(MAC) 184 of 2019;*
- (v) *Pass such other order or orders as the Hon'ble High Court may deem fit and proper..*

[4] Brief facts leading to this case is that on 18.08.2019 at about 4-10 a.m. the deceased along with her younger son(claimant petitioner No.2) was proceeding towards Ampura to visit the house of her relative from Ramchandraghat by riding a motor bike as

a pillion rider. When the bike reached at Kamini Para Rubber garden near a turning, at that time one Scorpio bearing registration No. AS-01-BA-2527 (here-in-after called the offending vehicle) came there from Ampura side in a rash and negligent manner and dashed the motor bike and fled away. As a result of which deceased along with claimant petitioner No.2 fell on the ground along with the motor bike and a serious accident occurred. Due to the said accident deceased sustained severe head injury. Immediately after the accident deceased along with her son was taken to Khowai Hospital by the local people from where they were referred to AGMC & GBP Hospital but during treatment in the night deceased succumbed to her injury on the same day. In this connection a Khowai PS Case No. 86 of 2019 1/s 279/338/304-A of IPC was also registered. Claimant petitioners further stated in their claim petition that the accident occurred due to rash and negligent driving on the part of the driver of the offending vehicle. Claimant petitioners also stated that deceased was aged about 38 years and she was a daily labourer and used to earn Rs. 8,000/- per month before the accident. The claimant petitioners, therefore, approached this court seeking compensation due to death of the deceased and quantified their claim to the tune of Rs.25,00,000/-.

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

“(i) Claimant petitioners are entitled to get the award of Rs.12,30,060/- (rupees twelve lacs thirty thousand sixty) only along with 9% simple interest per annum from the date of registration claim i.e, w.e.f. 07.09.2019 till the date of realization thereof.

The clamant petitioner nos.1 and 2 being the sons of the deceased shall have equal share on the awarded amount.

(ii) 50% of the share of the claimant petitioner No.1 and 2 in the award be invested by purchasing separate Fixed Deposit certificate from any Nationalized Bank at least for the next 5 years and no loan or advance or pre- mature withdrawal shall be allowed without prior sanction of this Tribunal.

Remaining amount of shares of the claimant petitioner Nos. 1 and 2 shall be credited directly to their individual bank account.

The OP No.2 National Insurance Company Ltd. shall deposit the awarded amount along with the interest thereon within one month to this Tribunal.

[6] Being aggrieved by and dissatisfied with the judgment and award dated 06.12.2022 passed by the Ld. Motor Accident Claims Tribunal, No.2, West Tripura, Agartala in case No.TS(MAC) 184 of 2019, the present appeal has been preferred by the appellant.

[7] During the argument, Mr. S. Debnath, learned counsel appearing for the appellant has contended before this court that the imposition of 9% interest for depositing the awarded amount to the claimants by the Ld. Tribunal is absolutely illegal and prayed before this court to reduce the same.

[8] After perusing the record and also having considered the submission as advanced by the counsel for the parties, this court is of the view rate of interest of 9% imposed for depositing the awarded amount is higher and thus the same is reduced to 7.5% instead of 9%. Consequently, the claimants would be entitled compensation of ***Rs.12,30,060 (Rupees twelve lacs thirty thousand sixty)*** only as indicated above along with 7.5% interest per annum with effect from the date of presentation of the claim petition (i.e. 07.07.2019) 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 already deposited. However, it is made clear that on such deposit, the claimants are at liberty to withdraw the same unconditionally as per procedure. It is needless to mention here that the rest part of the impugned order dated 06.12.2022 remains unaltered.

[9] 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.

JUDGE

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