

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.50 of 2023

1. The Oriental Insurance Company Limited.

..... Appellant

-VERSUS-

1. Sri Mohanlal Gope and Others.

..... Respondents.

B_E_F_O_R_E
HON'BLE MR. JUSTICE T. AMARNATH GOUD

For Appellant(s)	:	Mr. B. Majumder, Advocate.
For Respondent(s)	:	Mr. G. S. Das, Advocate. Mr. S. Bhattacharjee, Advocate. Mr. K. Deb, Advocate.
Whether fit for reporting	:	<u>YES/NO</u>

Judgment and order dated 20th June, 2024

JUDGMENT & ORDER [ORAL]

Heard Mr. B. Majumder, learned counsel appearing for the appellant also heard Mr. G.S. Das, learned counsel, Mr. S. Bhattacharjee, learned counsel and Mr. K. Deb, learned counsel appearing for the appellants.

[2] This is an appeal filed under Section-173 of the Motor Vehicle Act, 1988 along with its up to date amendments against the impugned judgment and award dated 09.01.2023 passed by the learned Member, Motor Accident Claims Tribunal, Khowai Tripura, rendering in case No.T.S.(MAC) 01 of 2018.

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

- i. Admit this appeal.
- ii. Issue notice upon the respondents.
- iii. Call for the records of the case from the Motor Accident Claims Tribunal Khowai Tripura, in case No. T.S.(MAC) 01 of 2018.
- iv. Stay the operation of the impugned judgment and award dated 09.01.2023, passed by the learned Member, Motor Accident Claims Tribunal Khowai Tripura in case No. T.S.(MAC) 01 of 2018.
- v. After hearing the parties at length, be pleased enough to dismiss/set aside/quash the impugned judgment and award dated 09.01.2023, passed

by the learned Member, Motor Accident Claims Tribunal Khowai Tripura, in case No. T.S. (MAC) 01 of 2018.”

[4] The facts in brief are that the Oriental Insurance Co. Ltd. has been impleaded in the case No. T S (MAC) 01 of 2018, as an insurer of the offending vehicle No. TR-01-L-7323 (Bajaj Pulsar) in the claim petition preferred by the claimant-respondent before the Ld. Motor Accident Claims Tribunal Khowai Tripura, on account of death of the deceased Rajesh Gope in a vehicular accident. The insurance company by filing written statement contested the said claim petition by stating that the claimant was not entitled any relief from the learned tribunal and the other respondents also contested the claim proceeding by filling written statement.

[5] After completion of the pleadings as well as having heard the argument canvassed by the respective parties, the learned tribunal, on 09.01.2023, has allowed the claim petition by passing the judgement awarding Rs. 32,74,000/- along with interest @ 9% p.a within 60 days from the date of passing of this award by fastening the liability in making payment of the said compensation upon the insurance company to the claimants.

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

“Being the insurer of the offending vehicle, the OP No. 3, the Oriental Insurance Company Ltd (OP No.03) is to pay the awarded compensation amount of Rs.32,74,000/- (rupees thirty two lakh and seventy four thousand only) along with interest @ 9% per annum within 60 days from the date of passing of this award.

The claimant-petitioner No.2 Smti. Malati Gope is entitled to get compensation for an amount of Rs.32,74,000 (rupees thirty two lakh and seventy four thousand only) only, the Oriental Insurance Company Ltd. is to pay the award amount of compensation to the claimant petitioner with 9% interest per annum from the date of filing of the claim petition by the claimant-petitioner till the date of payment. Out of the amount of total compensation 50% of the awarded amount be kept in fixed deposit scheme in any Nationalize Bank for a period of 5 (five) years and the said claimant petitioner if desires will be at liberty to draw the monthly interest to be accrued from the fix deposit scheme.”

[7] Being aggrieved by and dissatisfied with the judgment and award 09.01.2023 passed by the learned Member, Motor Accident Claims Tribunal, Khowai Tripura, in connection with T.S. (MAC) 01 of 2018, the present appeal has been preferred by the appellant.

[8] The learned Court below has assessed the monthly income of the deceased as Rs.15,000/- as a young man of 24 years and also had a shop 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/- 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) One third of Rs.16,800/- comes to Rs.5,600/-.

[9] Now, the income per month comes after deducting the amount for personal expenses of the deceased is $\text{Rs.16,800} - 5,600 = \text{Rs.11,200/-}$. So the loss of dependency is $\text{Rs.11,200} \times 12 \times 18 = \text{Rs.24,19,200/-}$. The claimants are also entitled to compensation under others heads viz. Funeral expenses Rs.25,000/-, loss of love and affection to aged parents Rs.1,00,000/-, loss of estate Rs.1,00,000/- and litigation cost Rs.25,000/- which would comes to Rs.2,50,000/-. Hence, the total amount comes to $\text{Rs.24,19,200} + 2,50,000 = \text{Rs.26,69,200/-}$ instead of Rs.32,74,000/- as awarded by the learned tribunal below.

[10] 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.

[11] 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

**ANJAN
GHOSH**

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