

**HIGH COURT OF TRIPURA**  
**A\_G\_A\_R\_T\_A\_L\_A**  
**MAC. App. No.53 of 2023**

1. National Insurance Company Limited.

*..... Appellant*

**-V E R S U S-**

1. Sri Ranjit Banik and 2 Others.

*..... Respondents.*

**B\_E\_F\_O\_R\_E**  
**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

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|---------------------------|---|---------------------------|
| For Appellant(s)          | : | Mr. N. Debnath, Advocate. |
| For Respondent(s)         | : | Mr. S. Lodh, Advocate.    |
| Whether fit for reporting | : | <b><u>YES/NO</u></b>      |

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**Judgment and order dated 20<sup>th</sup> June, 2024**

**JUDGMENT & ORDER [ORAL]**

Heard Mr. N. Debnath, learned counsel appearing for the appellant also heard Mr. S. Lodh, learned counsel appearing for the respondents.

[2] This is an appeal filed under Section-173 of the Motor Vehicles Act, 1988 as amended till date, against the award dated 06.02.2023 passed by the learned Member, Motor Accident Claims Tribunal, Court No.4 West Tripura, Agartala in connection with T.S. (MAC) 44 of 2020 whereby the appellant National Insurance Co. Ltd has directed to pay an awarded amount of Rs.23,60,400/- with 9% interest from 11.03.2020 till payment is made.

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

- a. Admit the appeal.
- b. Call for the records of case No. T.S.(MAC) 44 of 2020 from the learned Motor Accident Claims Tribunal Court No.4, West Tripura, Agartala.
- c. Stay the operation of the impugned award dated 06.02.2023 passed in T.S. (MAC) 44 of 2020.
- d. After hearing the parties be kind enough to set aside/quash the impugned award appealed against.”

[4] As per the impugned judgment, the brief fact of the case is that on 20.01.2019 the claimant met with an accident involving the offending truck bearing registration No.TR-01-AA-1841, which dashed him coming from back side in a rash and negligent manner. The claimant was immediately taken to hospital and later on discharged after operating his right leg. On 11.03.2020 suit was instituted by the claimant. Thereafter, issues were framed. The National Insurance contested the claim by filing written objection. After recording the evidence, the learned Court below without appreciating the vital arguments put forwarded by the O.P. and overlooking the lacunas in the case of the claimant, the learned tribunal passed the impugned judgment and award directing the OP to pay the compensation to the claimants. The learned tribunal without appreciating the settled law of the land and appreciation of facts committed serious error inviting failure of justice for the appellant herein.

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

“In the result, the application under Section-166 of the M.V. Act, 199 filed by the claimant, Sri Ranjit Banik is allowed on contest.

The claimant is entitled to a sum of Rs.23,60,400/- (Rupees twenty three lakhs sixty thousand and four hundred) only as compensation in this case.

O.P. No.3 the National Insurance Co. Ltd. being insurer of the offending vehicle bearing No. TR-01-AA-1841 shall pay the said amount of compensation to the claimant within a period of 30(thirty) days from the date of award in terms of Section-168(3) of the Act.

The amount of compensation shall carry interest @9% per annum from the date of presentation of claim petition before the tribunal on 11.03.2020 till realization.

40% of the share of the claimant petitioner be invested by purchasing fixed deposit certificate from any Nationalized Bank at least for the next 5 years with a liberty to the claimant petitioner to withdraw the monthly interest from his own account and no loan or advance or pre-mature withdrawal shall be allowed without prior sanction of this tribunal.

The O.P. insurance company shall give notice of the deposit of the compensation amount to the claimant and shall also file a compliance report with this Tribunal within 15 days of the deposit.”

[6] Being aggrieved by and dissatisfied with the judgment and award 06.02.2023 passed by the learned Member, Motor Accident Claims Tribunal,

Court No.4 West Tripura, Agartala in connection with T.S. (MAC) 44 of 2020, the present appeal has been preferred by the appellant.

[7] From the claim statement supported by the evidence of PW-1 it appears that monthly income of the claimant was Rs.16,000/- at the time of accident. Though there is no document submitted to prove such contention, but it can be easily presumed that in the year 2019 a businessman could have earned at least Rs.14,000/- at the time of accident. Accordingly, monthly income of the claimant is considered as Rs.14,000/- at the time of accident. In the present case the disablement has been shown as temporary, but it must be treated as permanent in view of the settled principle of law.

[8] In view of overall analysis made by the learned tribunal and after going through the material evidence in its entirety, this Court is of the view that the assessment of compensation as awarded by the learned tribunal below is just and proper and needs no interference thus, the findings as arrived at by the learned tribunal below stands affirmed. Consequently, the present appeal stands dismissed. 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**

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