

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.64 of 2023

Shri Rajib Kar **Appellant(s)**

Versus

Shri Rajesh Dhar and others **Respondent(s)**

For Appellant(s)	:	Mr. S. Datta, Advocate. Mr. S. Bhattacharjee, Advocate.
For Respondent(s)	:	Mr. SD Choudhury, Advocate. Mr. P. Gautam, Advocate.
Date of hearing and delivery of judgment & Order	:	24.06.2024
Whether fit for reporting	:	Yes/No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment and order (Oral)

The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the awarded amount for sustaining injuries and disablement of the appellant-claimant. This appeal is filed challenging the impugned judgment and award dated 22.11.2022 passed by the Motor Accident Claims Tribunal, West Tripura, Agartala in Title Suit (MAC) 109 of 2019.

[2] The learned Tribunal after hearing the parties, vide judgment and award dated 22.11.2022 disposed the case of the claimant in the following manner:

"AWARD

It is, therefore, held that the petitioner Sri Rajib Kar is entitled to get **Rs.2,06,200/- (Rupees Two Lakh Six Thousand Two Hundred) only** with interest @ 7% per annum from 20.05.2019 i.e. the date of filing of the case till the date of actual payment. The Noticee No. 1, Oriental Insurance Co. Ltd. will pay the amount of compensation with interest within 30 days from today.

Supply copy of this award free of cost to the parties.

The claim petition stands disposed of on contest.....”

[3] Being aggrieved by the aforesaid impugned judgment and award dated 22.11.2022, the appellant claimant has preferred the instant appeal.

[4] Mr. S. Datta, learned counsel for the appellant submits that the learned Tribunal below has most illegally and arbitrarily considered and assessed the monthly income at a tune of Rs.10,500/- which is very meager itself as the appellant was a motor mechanic. It is submitted on behalf of the appellant that the award of compensation assessed by the learned Tribunal below with regard to other heads also is not sustainable in the eye of law and the assessment of compensation made is on the lower side. Learned counsel, therefore, urges this Court to set aside the impugned judgment and award passed by the learned Tribunal below.

[5] On perusal of record, it is seen that without any documentary evidence, learned Tribunal below has fixed the notional income of the appellant who suffered injury because of accident, at Rs.10,500/- per month. Since, the appellant was working as a skilled worker and no documentary proof of his income is available, this Court is of the view that the notional monthly income of the appellant-claimant be enhanced to Rs.12,000/- per month from Rs.10,500 per month following the Notification dated 4th August, 2023 issued by the Registry of this Court.

Now, if the notional income of the appellant be considered as Rs.12,000/- per month, then the compensation under the head of loss of income stands as under:

$$(Rs.12,000/- \times 6) = \textbf{Rs.72,000/-}.$$

[6] In view of the above, the compensation to be awarded to the claimant under the head of loss of income would be **Rs.72,000/-** instead of Rs.63,000/- as fixed by the Tribunal below. However, insofar as the other aspects of the impugned judgment and award passed by the learned Tribunal below are concerned, the same shall remain unaltered.

[7] Thus, the present appeal stands partly allowed to the extent as indicated above and accordingly, same is disposed of. As a sequel, miscellaneous application(s) pending, if any, shall stand closed.

Draw the decree accordingly and thereafter, send down the LCRs.

JUDGE

Sabyasachi G.

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GHOSH

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