

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP NO.63 OF 2023**

Sri Narayan Banik

.....**Appellant(s)**

Versus

Smt. Sutapa Saha and ors.

.....**Respondent(s)**

For the Petitioner(s) : Mr. T. Chakraborty, Advocate.

For the Respondent(s) : Mr. R. Saha, Advocate.
Ms. R. Purukayastha, Advocate.

Date of hearing and delivery of
Judgment & Order : 21.06.2024

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

This appeal has been filed under Section 173 of the Motor Vehicle Act, 1988 challenging the Judgment and Award dated 12.04.2023 passed by the learned Member, Motor Accident Claims Tribunal, Court No.1, Agartala, West Tripura in case No.T.S.(MAC)157 of 2020. By filing the suit the claimant has claimed compensation to the tune of Rs.11,50,000/-. Concerning the said accident, two ejahars were lodged, one by the wife of the appellant herein Smti. Manika Dey(Banik) and another by Sri Dhrubajyoti Saha, the driver of the offending vehicle being registration no.TR-01-BD-0471. Clubbing the said two ejahars together, a police case was registered at Bishalgarh Police Station

vide Bishalgarh P.S. Case No.91 OF 2019 under Sections 279/427 of IPC and Sections 184/177 of M.V. Act.

2. The learned Tribunal below after hearing the parties vide Judgment dated 12.04.2023 disposed of the claim application with nil award as the charge sheet of the police case was filed against the present appellant.

3. Being aggrieved by and dissatisfied with the said Judgment and award dated 12.04.2023, the appellant has preferred this allowed this appeal.

4. Heard Mr. T. Chakraborty, learned counsel appearing for the appellant as well as Mr. R. Saha, learned counsel appearing for the respondent-Insurance Company.

5. Mr. Chakraborty, learned counsel appearing for the appellant submits that the learned Tribunal though exhibited the police complaint of the claimant as Exbt-6, but, did not consider the complaint and passed Judgment with nil award. Accordingly, the learned counsel urged this Court to set aside the impugned Judgment passed by the learned Member, Motor Accident Claims Tribunal.

6. Heard and perused the evidence on record.

7. The Tribunal has not considered the evidence nor examined the police officer in support of the final report which is filed. Merely on the final report placed on record, the learned Tribunal below has proceeded and rejected the claim without there being any evidence before the Tribunal below, and the said documents also were not marked.

8. Since the Motor Vehicle Act and the claim made there under are beneficial legislation, proper evidence needs to be recorded and the procedure contemplated needs to be followed. Accordingly, the appeal is allowed, the impugned order is set aside and as agreed upon by both the parties, the matter is remanded back to the learned Tribunal below for proper adjudication of the matter in terms of the reasons indicated above and to pass an appropriate order.

9. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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