

HIGH COURT OF TRIPURA
AGARTALA
MAC APP NO.69 OF 2023

Smt. Papiya Debnath and ors.

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

Versus

Sri Jems Debbarma and ors.

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

For the Appellant(s) : Mr. S. Lodh, Advocate.

For the Respondent(s) : None.

Date of hearing and delivery of
Judgment & Order : 23/04/2024

Whether fit for reporting : YES/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 present appeal has been filed under Section 173 of the Motor Vehicle Act, 1988, against the impugned Judgment & Award dated 04.03.2023, passed by the learned Member, Motor Accident Claims Tribunal, Court No.1, West Tripura, Agartala, in T.S.(MAC) 06 of 2020, for enhancement of the compensation.

2. The brief fact of this case is that on 23.11.2019, at about 16.00 hrs., Gobinda Debnath was proceeding towards Agartala by riding his motorbike bearing no. TR-01-H-6404 and when he reached at Mohanpur near Milk Diary on NH-8 at 10.50 hours, another motorbike bearing registration No. TR-01-AC-

7754 coming from the opposite direction in rash and negligent manner dashed the motorbike of Gobinda Debnath resulting which he sustained grievous injuries on his person. After shifting him to AGMC & GBP hospital, the attending doctors declared him dead. For claiming compensation for the motor vehicular accident of Gobinda Debnath, the appellants filed a claim petition under Section 166 of the M.V. Act, 1988, before the learned Member, Motor Accident Claims Tribunal, Court No.1, West Tripura, Agartala, and the same was registered and marked as T.S. (MAC) 06 of 2020. After hearing the parties, learned Member, Motor Accident Claims Tribunal, Court no.1, West Tripura, Agartala, vide Judgment & Award dated 04.03.2023, awarded Rs. 14,26,500/- along with the interest @ 6 percent per annum and held that the accident was caused due to fault of both the involved motorbikes and deducted 50% from the total awarded amount, and directed the respondent No.2 to pay the same. As the award is on the lower side, the appellants have preferred the instant appeal.

3. Heard Mr. S. Lodh, learned counsel appearing for the appellants. None appear for the respondents.

4. Mr. Lodh, learned counsel appearing for the appellants vehemently argued upon the quantum of monthly income of the deceased as assessed by the learned Tribunal and

also in respect of contributory negligence involving both the vehicles in the accident.

5. After perusal of the record and considering the arguments as advanced by learned counsel appearing for the appellants, the matter is remanded back to the learned Tribunal below for re-examination and also to appreciate the documentary evidence on record and examine the necessary witness particularly the investigation officer who has filed the final report and after giving a fair opportunity to both sides, the learned Tribunal below will decide the present accident claim appeal on the point of contributory negligence and also with regard to the fair fixation of the salary of the deceased. It is needless to observe that the Court below to consider the settled principles of law decided by the Hon'ble Supreme Court as applicable.

6. With the above observation and direction, this present appeal stands disposed of.

JUDGE

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