

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.77 of 2023

National Insurance Co. Ltd.

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

Versus

Shri Gouranga Ghosh and others

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

For Appellant(s)	:	Ms. R. Purkayastha, Advocate.
For Respondent(s)	:	Mr. Asutosh De, 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 against the impugned award dated 14.02.2023 passed by the learned Motor Accidents Claims Tribunal, West Tripura, Agartala, Tribunal No.4 in T.S. (MAC) 116 of 2019 whereby the learned Tribunal below has awarded compensation of Rs.11,20,400/- only along with simple interest @ 9% per annum from the date of registration of claim i.e., w.e.f. 29.05.2019 till the date of realization thereof, to the claimant respondents to be paid by the OP No.3 (appellant).

[2] The brief facts of the case as per the impugned judgment and order of the Court below are that on 31.08.2018 victim Jyotsna Ghosh (deceased) was proceeding to Teliamura by an auto rickshaw bearing No. TR-01-B-3630. At about 4.30 p.m., while the said rickshaw reached near Icharbil School on Kohwai - Teliamura Road, at that time a vehicle bearing No. TR-06-A- 0307 (Maruti Eco) coming from opposite direction with high speed in rash and negligent manner dashed the auto rickshaw. As a result the victim including other passengers sustained multiple injuries on their persons and instantly they were taken to Teliamura Hospital and thereafter, the victim Jyotsna Ghosh was referred

to GBP Hospital, Agartala where she was declared dead by the attending doctor. Hence, the claimant petitioners being the husband and sons of deceased Jyotsna Ghosh filed a suit before the learned tribunal below seeking compensation to the tune of Rs.17,50,000/-. According to the claimants the accident occurred due to reckless and irresponsible driving of the offending Maruti Eco vehicle by its driver. It was also pleaded that the deceased was of the age of 57 years and being a cook of Kalimata Brick Kiln used to earn about Rs.13,000/- per month.

[3] The O.P. No.1, owner of the offending vehicle bearing No. TR-06-A-0307 contested the suit by filing written statement and apart from denying all the allegations contended that he was the owner of the offending vehicle and that at the time of accident he drove the vehicle having valid driving licence. It was stated that the alleged vehicle was insured with the O.P. No.3, the National Insurance Co. Ltd. Therefore, O.P. No.1, urged for fixing the liability on his insurer to pay the compensation, if any. O.P. No.2, owner of the vehicle bearing No. TR-01-B-3630 (Auto Rickshaw) though appeared, but did not contest the suit by filing written statement. Thus, the suit was declared ex parte against the said O.P.

[4] O.P. No.3 the National Insurance Co. Ltd. (insurer of vehicle bearing No. TR-06-A-0307) through their written statement have denied all the allegations and thereby put the claimant petitioners as well as the O.P. No.1 in strict proof of their respective claims. O.P. No.4 the Oriental Insurance Co. Ltd. through their written statement have denied all the allegations and thereby put the claimant petitioners in strict proof of their claim.

[5] Learned tribunal below, after examining all the facts and circumstances of the case and upon hearing the submissions of the learned counsel of the parties, passed the following order on 14.02.2023:

".....16.

ORDER

In the result, claim is awarded in following terms :-

(i) Claimant petitioners are entitled to get the award of **Rs.11,20,400/- (Rupees eleven lakhs twenty thousand four hundred) only along with 9% simple interest per annum** from the date of registration of claim i.e, w.e.f. 29.05.2019 till the date of realization thereof from the O.P. No.3 the National Insurance Co. Ltd.

(ii) The claimant petitioners shall get the compensation in equal share.

(iii) 30% of the award of the claimants be invested by purchasing separate Fixed Deposit certificates in the name of claimant petitioners from any Nationalized Bank at least for the next 5 years with a liberty to the claimant petitioners to withdraw the monthly interest from their own accounts and no loan or advance or pre-mature withdrawal shall be allowed without prior sanction of this Tribunal.

The O.P. No.3, i.e. the National Insurance Company Limited shall deposit the awarded amount along with interest thereon within one month from this day with this Tribunal.

Supply a copy of this award free of cost to the parties by not later than 15 days from the date of the award.

The case stands disposed off on contest."

[6] Heard Ms. R. Purkayastha, learned counsel for the appellant insurance company. Also heard Mr. A. De, learned counsel for the claimant-respondents.

[7] Ms. Purkayastha, learned counsel for the appellant insurance company submits that the assessment of compensation made by the learned tribunal is not sustainable in the eye of law and the same is on the higher side. She further contends that the learned tribunal awarded interest @9% which is also very high. Learned counsel, therefore, urges this Court to set aside the impugned judgment and award passed by the learned Tribunal below.

[8] On the contrary, Mr. A. De, learned counsel for the claimant-respondents opposes the submission made by the learned counsel for the appellant insurance company. Learned counsel prays that the order passed by the learned tribunal below should not be interfered with as the same has been passed in accordance with law.

[9] On perusal of the documentary evidence on record and upon hearing the submissions made by the learned counsel for the parties, this Court finds no infirmity with regard to the assessment made by the tribunal below in the impugned judgment and award on 14.02.2023. The assessment of compensation made by the learned tribunal is just and proper. However, insofar as interest imposed by the learned tribunal @9% per annum is concerned, it is obviously on the higher side. This Court in all matters is fixing 7.5% per annum interest to maintain uniformity while comparing the bank rate of interest which is also much less. Consequently, the claimant(s) would be entitled to compensation as awarded by the learned tribunal below along with simple interest @ **7.5% per annum** instead of 9% per annum as fixed

by the learned tribunal with effect from the date of registration of the claim till the date of realization.

Thus, the present appeal stands partly allowed to the extent as indicated above. 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.

SABYASACHI
GHOSH

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