

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP NO.83 OF 2023**

**National Insurance Company Ltd., Represented by the
Divisional Manager**

.....Appellant(s)

Versus

Sri Dilip Debnath and anr.

.....Respondent(s)

For the Appellant(s) : Ms. R. Purukayastha, Advocate.

For the Respondent(s) : Mr. S. Datta, Advocate.

Date of hearing and delivery of
Judgment & Order : 28.11.2024

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 against the impugned Award dated 08.02.2023 passed by the learned Motor Accident Claims Tribunal, Sepahijala Tripura Bishalgarh in T.S.(MAC)05/2020 whereby the learned Tribunal below awarded compensation of Rs.10,61,750/- only along with a simple interest @ 6% per annum on the above amount from the date of filing this claim appeal(i.e. 01.02.2020) until realization, to the claimant respondent to be paid by the OP. No.2 appellant.

2. The brief facts of this case is that on 13th June 2019, at approximately 8:00 PM, the claimant was walking on the left side of the road, proceeding from BhuiyarMatha towards RastarMatha via the Bishalgarh-Agartala main road. When the claimant reached Gokulnagar Bridge, a motorcycle bearing registration number TR-01-AF-7374, coming from the Agartala side, struck him from behind. As a result, the claimant sustained grievous injuries, including fractures in the hip, pelvis, both legs, and wrist, as well as head injuries and fractures in various parts of his body, particularly in the bones of both legs. He was immediately taken to TMC Hospital, Hapania, for medical treatment. Subsequently, the claimant filed a petition seeking compensation for the injuries and damages suffered due to the accident. After hearing both parties, the learned Tribunal passed the aforementioned award.

3. Heard Ms. R. Purukayastha, learned counsel appearing for the appellant-Insurance Company as well as Mr.S. Datta, learned counsel appearing for the claimant-respondents.

4. Ms. Purukayastha, learned counsel appearing for the appellant insurance company submits that learned Tribunal without any proof of disability has considered the disability at 100 percent and, accordingly, awarded the compensation towards future

loss of earning. Further the learned Tribunal without any document awarded Rs.50,000/- towards future treatment and Rs.1,50,000/- for pain and suffer and the same liable to be quashed.

5. On the other hand, Mr. S. Datta, learned counsel submits that injury report of the claimant has been submitted before the Court below and relying on the same the Court below has awarded the compensation which is just and proper.

6. Heard and perused the evidence on record.

7. After considering the arguments presented by the learned counsel for the parties and reviewing the evidence on record, the matter is remanded to the lower court for reconsideration. The Court below is directed to examine whether any disability certificate has been produced by the claimant and if the Medical Board has reviewed the same. Upon completing this process, the Court below is at liberty to reassess the compensation amount. It is needless to clarify that the disability considered must pertain to the accident in question, specifically the disability present on the date of discharge from the hospital. Any subsequent disability shall not be taken into account.

8. With the above observation and direction this present appeal stands disposed of. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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SUHANJIT SINGHA
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HIGH COURT OF TRIPURA



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