

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App.No.85 of 2023

1. The Oriental Insurance Company Limited

..... Appellant

-V E R S U S-

1. Smti. Sangita Kurmi and 2 Others.

..... Respondents.

B_E_F_O_R_E
HON'BLE MR. JUSTICE T. AMARNATH GOUD

For Appellant(s)	:	Mr. B. Majumder, Advocate.
For Respondent(s)	:	Mr. R. Saha, Advocate.
Whether fit for reporting	:	YES/NO

Judgment and order dated 21st June, 2024

JUDGMENT & ORDER [ORAL]

Heard Mr. B. Majumder, learned counsel appearing for the appellant also heard Mr. R. Saha, learned counsel appearing for the respondents.

[2] This is an appeal filed under Section-173 of the Motor Vehicles Act, 1988 along with its up to date amendments against the impugned judgment and award dated 31.05.2023 passed by the learned Member, Motor Accident Claims Tribunal, Court No.2, North Tripura Dharmanagar in connection with case No. T.S. (MAC) 30 of 2019.

[4] The brief fact of the claimant's case is that on 15.03.2019 at about 12.45 hrs deceased Bibek Kurmi along with his friend were proceeding from Karimganj side towards Dharmanagar by riding motor cycle TR-05-B-5147 on national highway and a truck TR05-C-1560 came from the opposite direction and dashed deceased at Akhaidum under Kathaltali watch post, under Bazaricherra PS, Karimganj, Assam and as a result deceased sustained injury and local people shifted him to Patharkandi hospital but he died. The accident occurred due to rash and negligent driving of 'driver of truck namely Amio Deb and Bazaricherra PS case No.32 of 2019 under Section 279/338/304A of IPC is registered against driver Amio Deb. It is also pleaded that at the time of

accident deceased was 21 years old and tutor by profession and used to study in 4th semester in college and his monthly income was Rs. 15,000/- and claimant was dependent upon him.

[5] The learned Tribunal after hearing the parties and on perusal of the material evidence on record has observed as under:

“The OP No.3, The Oriental Insurance Co. Ltd. is to deposit the awarded compensation of directed Rs.30,94,000/- (Rupees Thirty Lakh Ninety Four Thousand) only within 30 days from today with interest thereon at the rate of 8% per annum with effect from date of filing of the claim application i.e., from 24.07.2019 to till realization of the full.

Protection Awarded Compensation

Fifty percent (60%) of the amount of compensation of claimant is to be fixed deposited for five years and the rest amount is to be released in her favour in her bank account. In case of necessity, the Tribunal can be approached for withdrawal of fixed deposited amount. On maturity of the fixed deposits the Banker shall credit the amounts to the sole SB Accounts of claimants without any further order from the Tribunal.”

[6] Being aggrieved by and dissatisfied with the judgment and award 31.05.2023 passed by the learned Member, Motor Accident Claims Tribunal, Court No.2, North Tripura Dharmanagar in connection with case No. T.S. (MAC) 30 of 2019, the present appeal has been preferred by the appellant.

[7] The learned Court below has assessed the monthly income of the deceased as Rs.15,000/- and towards personal expense 1/3rd was deducted and after deduction his monthly income was assessed as Rs.10,000/-. But, this Court following the notification dated 4th August, 2023 framed by the High Court, wherein if there is no income proof of the injured/deceased issued by the competent authority is submitted, being an unskilled worker, notional wages for determination of compensation in the claim cases/appeals involving accidents which has taken place on or before 31.12.2015 shall be Rs.10,000/- for a skilled worker and in the present case accident had taken place after 2019. After taking consent from both sides and as per schedule of the notification of this Court, the income of the deceased is considered as Rs.10,000/-. Thus, the computation would be as follows:

Income per month Rs.10,000 only and after deducting 1/3rd for personal expenses it will come to Rs.6,667/-. As the deceased was self employed and aged below 40 years, an addition of 40% of income is to be made. Thus, 40% of Rs.6,667/- = Rs.2,666/-. Thus, the total loss of monthly income stands Rs.6,667+ 2,666 =Rs.9,333/-. The loss income of the deceased stands at (Rs.9,333 x 12 x 18 = Rs.20,15,928/-. The claimant being the mother of the deceased, she is entitled to Rs.40,000/- as consortium. The claimant is also entitled Rs.15,000/- for loss of estate and Rs.15,000/- as funeral expenses. Accordingly, total compensation would be Rs.20,85,928/-. Thus, total compensation would be Rs.20,85,928/- instead of Rs.30,94,000/- as awarded by the learned tribunal below.

[8] This Court in all matters is fixing 7.5% interest and to maintain uniformity while comparing the bank rate of interest which is also much less. Consequently, the claimants would be entitled compensation as indicated above along with 7.5% interest per annum instead of 8% interest as awarded by the learned tribunal below, with effect from the date of presentation of the claim petition till the date of actual payment. The awarded amount shall be deposited by the insurance company within a period of one month from the date of receipt of the copy of this order, if not deposited. However, it is made clear that on such deposit; the claimants are at liberty to withdraw the same unconditionally.

[9] In the light of the above, the present appeal stands partly allowed. As a sequel, miscellaneous applications pending, if any, shall stand closed. Draw the decree accordingly and thereafter, send down the LCRs forthwith.

T. AMARNATH GOUD, J

A.Ghosh

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