

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP. NO.55 OF 2023**

Cholamandalam M.S. General Insurance Company Ltd.
.....**Appellant(s)**

Versus

Smti. Soumali Roy Alias Soumali Roy(Sarkar) and ors.
.....**Respondent(s)**

For the Appellant(s) : Mr. Rajib Saha, Advocate.

For the Respondent(s) : Mr. T.D. Majumer, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.
Mr. T. Halam, Advocate.

CO(FA) NO.15 OF 2023

Smti. Soumali Roy Alias Soumali Roy(Sarkar) and ors.
.....**Appellant(s)**

Versus

Cholamandalam M.S. General Insurance Company Ltd.
.....**Respondent(s)**

For the Cross Objector(s): Mr. T.D. Majumer, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.
Mr. T. Halam, Advocate.

For the Respondent(s) : Mr. Rajib Saha, 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(ORAL)**

The present appeal has been filed by the appellant-Insurance Company under Section 173 of the Motor Vehicles Act, 1988 read with Section 168 of the Act, challenging the judgment and award dated 24.01.2023, passed by the learned Motor Accident,

Claims Tribunal No.1, West Tripura, Agartala in Case No.T.S.(MAC)43 of 2021 and the cross-appeal has been filed under Order 41 Rule 22 of the Code of Civil Procedure, 1908 read with Section 173 of the Motor Vehicle Act, 1988 against the said impugned Judgment and Award. The title suit arose out of the Melagarh P/S Case No.42 of 20220 under Sections 279/304(A) I.P.C. The claimants claimed compensation to the tune of Rs.1,00,00,000/- in total stating that the claimants were solely dependent on the income of the deceased.

2. The learned Tribunal vide Judgment and Award dated 24.01.2023 awarded the compensation in the following manner:-

" Order

It is therefore, held that the petitioners are entitled to get compensation of Rs.30,21,000/-(Rupees Thirty Lakh Twenty one Thousand only) with interest @ 7% per annum with effect from 02.03.2021 ie., the date of filing of the claim petition till the date of actual payment. The Noticee No.2 Cholanmandalam MS General Insurance Company Ltd. will pay the amount of compensation with interest within 30 days from today.

Out of the awarded amount of compensation inclusive of interest, the petitioner No.1 will get 50%, minor petitioner no.2 will get 30% and the petitioner no.3 will get 20%. Out of the respective share of the petitioners no.1 and 3. 50% each of their share shall be kept in fixed deposit scheme in their respective name in any Nationalized Bank of their locality for a period of five years each and the remaining 50% of their respective share shall be paid to them through their respective bank account. The petitioner no.1 and 3 shall however be at liberty to withdraw monthly interest from their fixed deposit to meet their day to day expenses. The entire share of minor petitioner No.2 shall be kept in fixed deposit scheme in his name in the same bank and brach till he becomes major i.e. 21 years of age. Petitioner No.1 being the natural guardian of minor petitioner No.2 shall however be at liberty to withdraw monthly interest from his fixed deposit account and to utilize the same for his proper upbringing. No loan or withdrawal shall be permitted from any of the fixed deposit certificates without prior permission of this Tribunal.

Supply copy of this award free of cost to the parties.

The claim petitioner stands disposed of on contest.

Enter the result in the relevant Register as well as in the CIS."

3. Heard Mr. R. Saha, learned counsel appearing for the appellant-Insurance Company as well as Mr.T.D. Majumder, learned Sr.counsel assisted by Mr. T. Halam, learned counsel appearing for claimants-respondents as well as Mr. S. Bhattacharjee, learned counsel for owner-respondent.

4. Mr. Saha, learned counsel appearing for the appellant-Insurance company submits that the learned Tribunal has wrongly assessed the monthly income of the deceased at Rs.15,000/- and the same is based on guesswork.

5. On the other hand, Mr. T.D. Majumder, learned Sr. counsel appearing for the claimant respondents submits that the deceased is the owner of the maruti vehicle which was involved in the accident and the monthly income as fixed by the learned Tribunal below is just and proper.

6. Heard and perused the evidence on record.

7. This appeal and cross objection arises from the impugned award passed by the learned Tribunal in T.S.(MAC)43 of 2021. After hearing the learned counsels for the parties and upon a thorough review of the record, this Court is satisfied that the award of the learned Tribunal does not warrant interference. The argument as raised by the learned counsel appearing for the appellant-counsel that the monthly income as fixed by the learned Tribunal below is on the higher side and based on guesswork doesn't impress this Court as because it is seen from the record that the deceased was the owner of the Maruti Vehicle and a person who own a Maruti Vehicle must be earning substantially to maintain his lifestyle and this Court is of the opinion that the learned Tribunal, after considering the evidence presented, awarded the compensation amount.

8. With the above observation and direction, this present appeal stands dismissed and the impugned award stands confirmed as the same needs no interference. Subsequently, the cross objection is also disposed of.

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

JUDGE



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