

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.88 of 2023

1. Smti. Mani Adhikari.

..... Appellant

-V E R S U S-

1. Sri Suman Ghosh & 2 Others.

..... Respondents.

B_E_F_O_R_E
HON'BLE MR. JUSTICE T. AMARNATH GOUD

For Appellant(s)	:	Mr. D. Deb, Advocate.
For Respondent(s)	:	Mr. S. B. Debnath, Advocate.
Whether fit for reporting	:	YES/NO

Judgment and order dated 21st June, 2024

JUDGMENT & ORDER [ORAL]

Heard Mr. D. Deb, learned counsel appearing for the appellant also heard Mr. S. B. Debnath, learned counsel appearing for the respondents.

[2] This is an appeal filed under Section-173 of the Motor Vehicles Act, 1988 for enhancement of the awarded compensation vide judgment and award dated 05.06.2023 passed by the learned Member, Motor Accident Claims Tribunal No.1, West Tripura, Agartala in connection with case No. T.S.(MAC) 48 of 2010 to the extent of Rs.42,40,000/- as claimed by the claimant-petitioner-appellant in her claim petition by enhancement of the award of compensation as the learned tribunal in passing award made assessment of the compensation on the lower side.

[3] The appellant has prayed for the following relief:

“In the circumstances stated above it is most humbly prayed that Your Lordships would be graciously pleased to consider the prayer of the claimant-petitioner-appellant, admit the appeal, call for the records of the case, issue notice upon the respondents and after hearing the parties pass the order allowing the appeal modifying the judgment by enhancing the award of compensation as assessed by the learned Tribunal below.”

[4] The claimant-petitioner-appellant on 26.09.2019 at about 7.50 AM was proceeding from Haradhan Sangha towards North gate at that time the

offending vehicle bearing No. TR- 01-AJ-1705 (Tipper Truck) dashed the Claimant-Petitioner- Appellant due to which she suffered grievous injuries on her person. Out of the said accident an FIR was lodged against the driver of the offending vehicle in West Agartala P.S vide West Agartala P.S Case No. 228 of 2019. Soon after the accident she was taken to AGMC & GBP Hospital where she was treated as indoor patient for about a month but considering the condition of Claimant-Petitioner-Appellant was not improving she was referred to AMRI Hospital, Kolkata for better treatment. In AMRI Hospital Kolkata the Claimant-Petitioner-Appellant was again treated for about 1 month an indoor patient. Due to the injuries suffered by the Claimant-Petitioner-Appellant in the said accident she has suffered functional disability of 100% in relation to her body considering the nature of her work being a maid servant and thus suffered complete loss of income.

[5] The Claimant-Petitioner-Appellant filed the case T.S (MAC) 48/2020 before the Ld' Member, Motor Accident Claims Tribunal, West Tripura, Agartala claiming award of compensation for the injuries suffered by her in the said accident and also for loss of her income etc. The learned Member, Motor Accident Claims Tribunal by the judgment and award dated 05.06.2023 in Case No. T.S (MAC) 48/2020 granted compensation amounting Rs.5,05,100/- (Rupees five lakhs five thousand one hundred) only with 7% interest from the date of filing of claim petition on the lower side.

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

“It is, therefore, held that the claimant petitioner Smti. Mani Adhhikari is entitled to get compensation of Rs.5,05,100/- (rupees five lakh five thousand one hundred) only with interest @7% per annum w.e.f. 17.03.2020 i.e. the date of filing of the claim petition till the date of actual payment. The notice No.2 and 3, Choramandalam MS. General Insurance Company Ltd., jointly and severally will be liable to pay the awarded amount of compensation with interest within 30 days from today in terms of Section-168(3) of M.V. Act, 1988.”

[7] Being aggrieved by and dissatisfied with the judgment and award dated 05.06.2023, the present appeal has been preferred by the appellant.

[8] The claimant-petitioner-appellant herein in her claim petition as well as in her affidavit in chief stated that she is a maid servant having

a monthly income of Rs.15,000/-. Though there is no document submitted to prove such contention, but it can be easily presumed that in the year 2019 a day labour could easily earn Rs.300/- per day i.e. Rs.9,000/- per month and accordingly, her monthly income was assessed at Rs.9,000/- and accordingly, the whole calculation was done and the award was passed by the learned tribunal below amounting to Rs.5,05,100/-.

[9] In view of overall analysis made by the learned tribunal and after going through the material evidence in its entirety, this Court is of the view that the assessment of compensation as done by the learned tribunal below is just and proper and needs no interference thus, the findings as arrived at by the learned tribunal below stands affirmed. Consequently, the present appeal stands dismissed. 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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