

HIGH COURT OF TRIPURA
AGARTALA

Mac.app 102 of 2023

The Branch Manager,
The Oriental Insurance Company Ltd.

---Appellant(s)

Versus

Sri Mihir Nath and Ors.

---Respondent(s)

For Appellant(s)	:	Mr. B. Majumder, Advocate.
For Respondent(s)	:	Mr. S. Bhattacharjee, Advocate.
Date of hearing and date of judgment and order	:	21.06.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment and Order (Oral)

Heard Mr. P. Gautam, learned counsel for the appellant also heard Mr. D. Paul, learned counsel for the respondents.

[2] This is an appeal under Section 173 of the Motor Vehicles Act, 1988, along with its up to date amendments against the impugned judgment and award dated 10.05.2023 passed by the Ld. Member, Motor Accident Claims Tribunal No.2, North Tripura, Dharmanagar rendering case No. TS(MAC) 29 of 2019 accordingly.

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

- (i) Admit this appeal;
- (ii) Issue notice upon the respondents;
- (iii) Call for records of the case from the Motor Accident Claims Tribunal, No.2, North Tripura, Dharmanagar in case No.TS (MAC) 29 of 2019.
- (iv) Stay the operation of the impugned judgment and award dated 10.05.2023 passed by the Ld. Member Motor Accident Claims Tribunal No.2, North Tripura, Dharmanagar in Case No. TS (MAC) 29 of 2019.
- (v) After hearing the parties at length, be pleased enough to dismiss/set aside/ quash the impugned judgment and award dated 10.05.2023 passed by the Ld. Member, Motor Accident Claims Tribunal No.2 North Tripura, Dharmanagar in case No.T.S. (MAC) 29 of 2019
- (vi) And/or pass any other appropriate order/orders, direction/directions as your lordship may deem fit and proper.

[4] The brief fact of the claimant's case is that on 15.02.2018 at about 10.15 am deceased Ajanta Debnath was going to her school namely Hemsukla S.B. School as pillion rider by a bike TR-02-C-6461 being riding by OP No.1, Sri Narayan Nath and when reached at Gopalpur, Kanchanpur-Laljuri road, the said bike met with an accident due to rash and negligent driving. Deceased sustained injury and was taken to Kanchanpur Sub-divisional hospital. As condition of deceased was serious it was decided to shift deceased to Silchar and on the way deceased died. OP No.1 being owner cum rider of bike filed false FIR stating that accident occurred due to rash and negligent driving of a white Maruti Alto. At the time of death deceased was 44 years old and was assistant teacher of Hemsukla S.B. School and her monthly salary was Rs.27,700/- and deceased left claimants as her legal heirs.

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

“The OP No.2, The Oriental Insurance Company Limited is directed to deposit the awarded compensation of Rs.41,54,448/- (Rupees Forty One Lakh Fifty Four Thousand and Four Hundred Forty Eight) 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 19.07.2019 to till realization of the full.

Distribution of Compensation

Claimant No.1, 2 and 3 being husband, daughter and son each are entitled to get compensation equally.

Protection Awarded Compensation

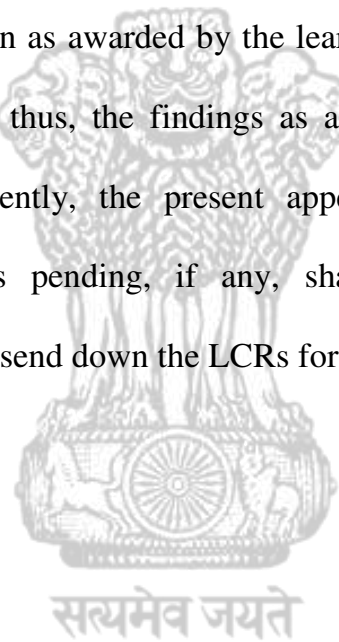
Fifty percent (50%) of the amount of compensation of claimant No.1 is to be fixed deposited for five years and the rest amount is to be released in his favour in his bank account. As claimant No.2 and 3 are minor their whole amount are to be deposited for fixed period till they attaining majority.

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 dated 10.05.2023 passed in connection with T.S.(MAC) 29 of 2019 by the learned Member, Motor Accident Claims Tribunal No.2, North Tripura, Dharmanagar, the present appeal has been preferred by the appellant.

[7] After perusal of the record, it appears to this court that the deceased used to earn Rs.27503/- per month as she was an Assistant Teacher by profession. Thus monthly income of the deceased is treated as Rs.27503/-. She was an earning lady and was taking proper care of the expenses of her family. In her absence, this would become really difficult for the family to sustain a free flowing life without financial support. This court feels that losing a member who earns for a family can compel its members to see the hardships of life. Therefore, the compensation as awarded by the learned tribunal below is apt for the claimants.

[8] In view of the overall analysis made by the learned tribunal below and after going through the material evidence in its entirety, this Court is of the view that the assessment of compensation as awarded by the learned tribunal below is just and proper and needs no interference thus, the findings as arrived 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.



JUDGE

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