

**HIGH COURT OF TRIPURA
AGARTALA**

MAC.App 99 of 2023

The Oriental Insurance Co. Ltd.

---Appellant(s)

Versus

Smt. Sumati Singha And 3Ors.

---Respondent(s)

For Appellant(s)	:	Mr. P Gautam, Advocate.
For Respondent(s)	:	Mr. S. Bhattacharjee, Advocate. Ms. S. Purkayastha, Advocate. Mr. S. Noatia, Advocate.

Date of hearing and date of judgment and order	:	08.07.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD
Judgment & Order (Oral)

Heard learned counsel for the parties.

[2] This is an appeal under Section 173 of the Motor Vehicles Act, 1988 read with Section 168 of the Act ibide, against the impugned judgment and award dated 19.05.2023 passed by the Motor Accident Claims Tribunal, North Tripura, Dharmanagar, in Case No.TS(MAC) 02 of 2018.

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

- (i) *Admit the appeal;*
- (ii) *Call for the case records from the Learned Tribunal below:*
- (iii) *Stay the operation of the impugned judgment and award dated 19.05.2023 passed by the Motor Accident Claims Tribunal, North Tripura, Dharmagar, in case no.TS(MAC) 02 of 2018 and the Hon'ble High court may kindly be pleased to direct the Ld. Tribunal not to proceed with any execution proceeding if any filed by the claimant respondents in the mean time, till disposal of the present appeal.*
- (iv) *After hearing the parties be pleased enough to set aside/quash the impugned judgment and award dated 19.05.2023 passed by the Motor Accident Claims Tribunal, North Tripura, Dharmanagar, in case No.TS(MAC) 02 of 2018.*
- (v) *Pass such other order or orders as the Hon'ble High Court may deem fit and proper.*

[4] The fact of the case, in short, is that on 02-07-2017 at about 8.30pm/9.00 pm victim vishal Singha was returning home along with his friend Gobinda Singha by a Scooty bearing No. TR-05-9374 and when he just crossed the Bridge No. 2 of Dewanpasa, Dharmanagar-Kailashahar Road, a truck loaded with logs coming from Kailashahar side knocked the Scooty as a result of which the victim received serious

bleeding injury on his person and the Scooty was damaged completely. The friend of the victim namely Gobinda Singha also received serious injury. The fire brigade took the victim Bishal Singha and his friend to Dharmanagar Hospital. Seeing the serious condition of victim, Bishal Singha was taken to Silchar Medical College & Hospital, Silchar and as his condition deteriorated, he was taken to NEIGRIHMS Shillong on the following day. On 08-07-2017 victim Bishal Singha succumbed to injuries. The accident was occurred due to rash and negligent driving of the driver of vehicle No.TRL 3500 (Truck) for which the only son of the claimant had died and his friend Gobinda Singha received serious injury who was also treated in NEIGRIHMS Shillong. It is also stated that due to the accident the claimant lost her only son at the age of 18 years. He was a student of Class XII. Due to the untimely death only son of the claimant, the claimant along with her husband has been passing their days in mental and physical sufferings. It is further stated that the victim Bishal Singha was only the legal heir of his parents. They were with a great hope that one day their son will maintain them in their old age but they lost their only legal heir very early and their sorrows is so acute that they are not in a position to bear it and for which both the mother and father became ill. The victim Bishal Singha was a good student and there was a hope that he might be succeeded in high position in service or other field of occupation. At the time of death, though he was a student of Class XII he used to earn Rs.5,000/- per month by way of tuition and used to provide his helping hand towards the maintenance of the family.

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

“17. In view of the above discussion and findings, the application under Section 166 of the Motor Vehicles Act, 1988 filed by the claimant-petitioner is allowed on contest.

It is ordered that the Opposite Party No. 3, The Branch Manager, Oriental Insurance Co. Ltd. Dharmanagar Branch, Dharmanagar, North Tripura being the insurer of vehicle bearing No.TRL-3500 (Tata Truck) will pay the compensation of Rs.9,29,762/- (Rupees nine lakh twenty nine thousand seven hundred sixty two) only to the claimant-petitioner within a period of 30 days from

this day of award. This award of compensation shall carry interest at the rate of 6% per annum from the date of presentation of the claim petition before this Tribunal i.e. 07-03-2017 till the realization.

Keeping in mind the guidelines of Hon'ble Apex Court in General Manager, Kerala State Road Transport Corporation, Trivandam Vs. Ms. Sushama Thomas and others (AIR 1994 SC 1631) and the guidelines as laid down in Union Carbide Corporations case (1991) 4 SCC 584 and subsequent decision of the Hon'ble High Court of Tripura in case no. MAC Application 36 of 2006 Joydeep Chakraborty Vs. Pintu Sharma and another since the claimant petitioner is a women she may not be handled with the money properly, it is ordered that 50% of the awarded amount together with interest shall be fixed in a long term fixed deposit scheme at least for a period of six years in her name in any Nationalized Bank giving a scope to her to draw the monthly interests accrued on it. No loan or other advances in any form shall be allowed on such fixed certificate without the express permission of this tribunal.

Rest 50% of the awarded amount together with interest shall be released in favour of the claimant-petitioner by transmitting it directly to her savings bank account to allow her to meet the expenditure of her livelihood which she might have incurred for the death of the deceased."

[6] Being aggrieved by and dissatisfied with the judgment and award dated 19.05.2023 passed by the Motor Accident Claims Tribunal, North Tripura, Dharmanagar, in Case No.TS(MAC) 02 of 2018, the present appeal has been preferred by the appellant.

[7] In course of argument, Mr. P. Gautam, learned counsel appearing for the appellant-insurance company has relied upon a judgment of the apex court in **Meena Devi vs Nunu Chand Mahto alias Nemchad Mahto and Others** reported in (2023) 1SCC 204. On perusal of the same, this court is of the opinion that the judgment is not relevant to the facts and circumstances of the case in hand. As per **Meena Devi** (supra), the notional amount was granted considering the victim as a minor. But in the present case, the deceased person was a major and he was a self-employed. Be it mentioned here that regarding the income of the skilled or unskilled labour during the accident, this court has issued a notification dated 4th August, 2023 wherein no income of proof of the injured/deceased issued by the competent authority is submitted, notional wages for determination of compensation in the claim cases/appeals involving accidents which has taken place after 31.12.2015 shall be Rs.10,000/- for an unskilled worker and Rs.12,000/- for skilled workers. In the present case accident had taken place in 2017. But it is seen from the record, the learned tribunal has considered Rs.5000/- as monthly income of the

deceased. Since the amount is much less, this court is not inclined to interfere with the compensation as awarded by the learned tribunal below and is of the opinion that the instant appeal may be dismissed.

[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

Dipak

**DIPAK
DAS**

Digitally signed by
DIPAK DAS
Date: 2024.07.10
17:16:31 +05'30'