

**HIGH COURT OF TRIPURA
AGARTALA**

Mac.app 103 of 2023

National Insurance Co.Ltd.
Represented by the Divisional Manager

---Appellant(s)

Versus

Smt. Laxmi Rani Paul (Deb Roy) and Ors

---Respondent(s)

For Appellant(s)	:	Mr. R. Saha, 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. R. Saha, learned counsel for the appellant also heard Mr. S. Bhattacharjee, learned counsel for the respondents.

[2] This is an appeal against the impugned award dated 02.06.2023 passed by the Ld. Motor Accident Claims Tribunal, in T.S. (MAC) 14 of 2017 whereby the Ld. Tribunal below has most illegally and arbitrarily awarded compensation of Rs.30,38,000/- (Rupees Thirty lacs and thirty thousands) only along with interest 9 % per annum from the date of filing this claim petition till the date of realization.

[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) Issue notice upon the respondents;
- (iv) After hearing the parties would further be pleased enough to quash/set aside the impugned award dated 02.06.2023 passed by the Ld.Motor Accidents Claims Tribunal in TS(MAC) 14/2017 whereby the Ld. Tribunal below has most illegally and arbitrarily awarded compensation of Rs.30,38,000/- (Rupees Thirty lacs and thirty thousands) only along with interest 9% per annum from the date of filing this claim petition till the date of realization, to the claimant respondents to be paid by the OP No.2 Appellant within 60 days from the date of passing of this award and further be pleased enough to stay the operation of the impugned award till final disposal of the appeal, otherwise the appellant would be highly prejudiced.

[4] Briefly stated the case of the claimant-respondents is that on 18.07.2016 at about 10.30 p.m. Manish Deb Roy (now deceased) was going to enjoy Kharchi Mela from his rented house at NIT boarding in a scooty bearing Regn No. TR- 01-W-5375 as a pillion rider along with his friend and when they reached at Ranir Bazar, Kawaban with heavy speed then one Maruti Van crossed the way, the rider lost his control over the scooty and due to said reason they fell down nearby road side. As a result, Manish Deb Roy received serious injury on his person. Immediately after the accident he was shifted to AGMC & GBP Hospital, Agartala by the help of local people where he was declared broad dead. The plea of the claimant-petitioners is also that the accident occurred due to rash and negligent riding by the rider of the offending scooty bearing Regn No. TR-01-W-5375. According to the claimant-respondents at the time of accident the deceased was 33 years old. He used to earn Rs. 20,000/- per month and he survived by his mother, wife and son. All the family members were totally dependent on him. A criminal case had been registered for the said accident in Ranir Bazar PS vide Ranirbazar PS Case No. 18/2016, dated 06.09.2016, U/s. 279/304 of IPC and 184/181/185 of MV Act.

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

Being the insurer of the offending vehicle, the OP No.2, the National Insurance Company Ltd (OP No.02) is to pay the awarded compensation amount of Rs.30,38,000/- (rupees thirty lakh and thirty eight thousand only) along with interest @9% per annum within 60 days from the date of passing of this award.

The claimant-petitioner No.1 Smt. Laxmi Rani Paul is entitled to get compensation for an amount of Rs.10,12,666/- (rupees ten lakh twelve thousand six hundred and sixty six) only, the claimant-petitioner No.2, Sri Tanmoy Deb Roy is entitled to get an amount of Rs.10,12,666/- (rupees ten lakh twelve thousand six hundred and sixty six) only, and the claimant-petitioner No.3, Smt. Kanan Deb Roy is entitled to get an amount of Rs.10,12,668/-(rupees ten lakh twelve thousand six hundred and sixty eight) only and the OP No.3, the National Insurance Company Ltd. is to pay the awarded amount of compensation to the claimant petitioners with 9% interest per annum from the date of filing of the claim petition by the claimant-petitioners till the date of payment. The awarded amount of Rs.10,12,666/- (rupees ten lakh twelve thousand six hundred and sixty six) only in favour of the claimant-petitioner No. 02, Sri Tanmoy Deb Roy being a minor shall be kept in the fixed deposit scheme in any Nationalized Bank till his completion of 18 years. Out of the rest amount of total compensation 50 % of the awarded amount be kept in fixed deposit scheme in favour of the claimant-petitioners No.1 and 3 in any Nationalized Bank for a period of 5(five) years and

the said claimant petitioners if desire will be liberty to draw the monthly interest to be accrued from the fix deposit scheme.

[6] Being aggrieved by and dissatisfied with the judgment and award dated 02.06.2023 passed in connection with T.S.(MAC) 14 of 2017 by the learned Member, Motor Accident Claims Tribunal Khowai, Tripura, 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/- being a skilled head cook. But this Court following the notification dated 4th August, 2023 framed by the High Court, 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 on or before 31.12.2015 shall be Rs.12,000/- for a skilled worker and in the present case accident had taken place in 2016. 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.12,000/-. Hence, Rs.15,000/- is reduced to Rs.12,000/-. Moreover, following the judgment of Santosh Devi vs. National Insurance Company Ltd and Ors by the Hon'ble Supreme Court one third of his income will be deducted towards personal and living expenses of the deceased. As per the judgment passed by the Hon'ble Supreme Court of India in National Insurance Company Ltd vs Pranay Sethi & Ors an addition of 40% of the income should be added towards future prospects. Thus the computation would be as follows:

- (i) *Income per month Rs.12,000 only + 40% of the income towards future prospect Rs.4800/- = Rs.16800/-*
- (ii) *One third of Rs.16800/- = Rs.5600/-*

[8] The income per month comes after deducting the amount for personal expenses of the deceased is Rs.16800/- - Rs.5600/- = Rs.11200/-. So, the loss of dependency is Rs.11,200/- x 12 x 11 = Rs.14,78,400/- (Rupees fourteen lakhs seventy eight thousand and four hundred) only.

[9] This Court considers the submission as advanced by the counsel for the appellant that the learned tribunal below has excessively awarded compensation under various heads and those need to be reduced to meet proper ends of justice. Therefore compensation as awarded by the learned tribunal below under the head of funeral expenses (Rs.25,000/-), loss of love and affection to aged parents (Rs.1,00,000/-) , love of estate (Rs.1,00,000/-), is reduced to the tune as mentioned below:

Head	Amount
Funeral Expenses	Rs.18000/-
Loss of consortium	Rs.1,00,000/-
Loss of love and affection to aged parents (Mother and son)	Rs.88,000/-
Loss of estate	Rs.15,000/-
Litigation costs	Rs.25,000/-
Total	Rs.2,46,000/-

[10] Hence, the total amount comes to Rs. Rs.14,78,400/- + Rs.2,46,000/- = **17,24,400/-(Rupees seventeen lakhs twenty four thousand and four hundred).**

[11] This Court in all matters 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 9% 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 as per procedure.

[12] 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.

JUDGE

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