

**HIGH COURT OF TRIPURA
AGARTALA**

MAC.App 97 of 2023

**The Divisional Manager,
Shriram General Insurance Company Ltd.**

---Appellant(s)

Versus

Smt. Raba Laxmi Debbarma and Ors.

---Respondent(s)

For Appellant(s)	:	Mr. K. De, Advocate.
For Respondent(s)	:	Mr. T.D. Majumder, Sr. Advocate. Mr. Sankar Bhattacharjee, Advocate. Ms. R. Debbarma, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

08.04.2024

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 read with Section 168 of the Act ibid against the impugned judgment and award dated 29.05.2023 passed by the learned Motor Accident Claims Tribunal No.1, West Tripura, Agartala, in case No.TS(MAC) 123 of 2020.

[2] The succinct fact of the case of the claimant petitioners as depicted in the claim petition is that on 16.07.2020 in between 7.30 to 8.30 p.m. the victim Manik Debbarma along with one Ashit Debbarma was going to the market from his house on foot through the rear side of the road and when he reached near Burning Ghat at College Chowmuhan, at that time, one Tata Magic bearing registration No. TR-01-D-2155 coming with excessive speed in a rash and negligent manner suddenly dashed on the back side of the victim Manik Debbarma. As a result, the victim fell down on the road and sustained bleeding injuries on his head, chest, spinal-cord, hip joint and other parts of his body. After the accident, the local people along with Ashit Debbarma shifted the injured victim to the Jirania Hospital but due to his serious injuries, he was referred to the GBP Hospital wherein he got admitted as an indoor patient but ultimately, he succumbed to his injuries on 19.07.2020 in course of his treatment and thereby the claimant petitioners spent

Rs.2,25,000/- for the treatment of the victim for such injuries. Thereafter, post mortem examination was done over the dead body. Concerning the said accident a police case was registered at Jirania Police Station vide Jirania P.S. Case No.35 of 2020 under Sections 279/304(A) of I.P.C. and Sections 183/184 of M.V. Act. It is stated in the claim petition that the victim Manik Debbarma was aged about 53 years at the time of death and he was a Group 'C' government employee serving under the TSECL having a monthly salary of Rs.60,000/-. Finally, the claimant petitioners claimed compensation to the tune of Rs.80,00,000/- in total.

[3] By the order dated 29.05.2023 the learned court below has observed in the following manner:

It is therefore held that the claimant petitioners are entitled to get compensation of Rs.41,50,700/- (Rupees Forty one Lakh Fifty Thousand Seven Hundred only) with interest @ 7% per annum with effect from 10.09.2020 i.e. the date of filing of the claim petition till the date of actual payment. The opposite party No.2 Shiram General Insurance Company Ltd. will pay the amount of compensation with interest within 30 days from today in terms of Section 168(3) of MV Act 1988.

Out of the awarded amount of compensation inclusive of interest, the claimant petitioner No.1 will get 60% and the claimant petitioner No.2 will get 40%. Out of the respective share of claimant petitioners no.1 and 2, 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 be paid to them through their respective bank account. The claimant petitioners no.1 and 2 shall however be at liberty to withdraw monthly interest from their deposit to meet their day to day expenses. No loan or withdrawal shall be permitted from/against any of the fixed deposit certificates without prior permission of this Tribunal.

[4] It is contended by the counsel for the appellant that the learned Tribunal has failed to consider that the offending vehicle during the relevant period of accident was not having valid permit. According to the appellant, the learned Tribunal has failed to consider the fact that the accident occurred on 16.07.2020 but the permit exhibited by the owner had the validity period from 20.08.2020 to 19th December, 2020. Hence, the offending vehicle was plied without any valid permit, which is a gross violation of the Statutory provision and also that of the policy condition.

[5] Mr. K. De, counsel for the appellant has contended that before the court below they have taken a pleading by way of written statement that permit and other document of

the offending vehicle need to be placed on record. During the course of argument, the insurance company has contended that there was no permit of the offending vehicle on the day of accident and thus the insurance company is not liable to pay the compensation.

[6] Mr. Sankar Bhattacharjee, learned counsel appearing for the owner of the offending vehicle contended that despite giving opportunity, the insurance company has not taken any step for adducing any evidence. No step was also not taken with regard to examining the owner of the vehicle of the on the said point i.e. not having valid permit on the day of accident.

[7] Heard both sides.

[8] In view of the above discussion, this is not open for the appellant-insurance company at this juncture for seeking relief from this court on the point which they have not led any evidence before the Tribunal. Therefore, the appellant has failed to make out his case and the instant appeal is liable to be dismissed. It is observed that the Insurance company be more diligent while participating in the judicial proceeding.

[9] Accordingly, the present appeal stands dismissed confirming the Judgment and Award dated 29.05.2023 passed by Ld. Motor Accident Claims Tribunal No.1, West Tripura, Agartala in Case No.T.S(MAC) 123 of 2020. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

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