

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.107 OF 2023**

Sri Bhagyapada Noatia Appellant(s)
Smt. Mamita Debbarma & Ors. *Versus* Respondent(s)

For the Appellant(s) : Mr. DC Roy, Advocate.

For the Respondent(s) : Mr. H. Debnath, Sr. Advocate.
Mr. R. Saha, Advocate.
Ms. U. Chanda, Advocate.

Date of hearing and delivery of
Judgment & Order : 27.06.2024

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

Heard Mr. D C Roy, learned counsel appearing for the appellant as well as Mr. H. Debnath, learned Sr. counsel assisted by Ms. U. Chanda, learned counsel appearing for the respondents. Mr. R. Saha, learned counsel entered appearance on behalf of Respondent-Insurance Company.

2. This present appeal has been filed under Section 173 of the M.V. Act 1988 against the judgment and award dated 27.05.2022 passed by the Learned Member Motor Accident Claims Tribunal in T.S.(MAC) 17 of 2018, West Tripura Agartala whereby the appellant is directed to pay the awarded amount of Rs.19,57,800/- with interest @ 6% per annum w.e.f. 30.01.2018.

3. The appellant has prayed for the following reliefs:-

- i. Admit this appeal.
- ii. Issue notice upon the respondents.
- iii. Call for the record in TS(MAC) 17 of 2018 from the Ld. Court of Motor Accident Claim Tribunal, Court No.1, West Tripura, Agartala.
- iv. After hearing the parties be pleased to direct the Insurance Company to satisfy the award dated 27.05.2022 in Case No. TS (MAC) 17 of 2018."

4. The case of the petitioner in brief is that Bahadur Debbarma alias Badal Debbarma met with a road accident on 13.07.2016 and expired. Thereafter, his survivors filed a claim petition vide Case No. T.S. (MAC) 17 of 2018 seeking compensation. The Claim petition was disposed of by a Judgment and Award dated 27.05.2022 by directing the appellant to pay Rs.19,57,800/- with interest @6% per annum w.e.f. 30.01.2018 to the survivors of the deceased Bahadur Debbarma alias Badal Debbarma. The appellant has decided to prefer an appeal for setting aside the Judgment and Award dated 27.05.2022. Hence this instant appeal.

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

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It is, therefore, held that the petitioners are entitled to get compensation of Rs.19,57,800/-(Rupees Nineteen Lakh Fifty-seven thousand Eight hundred only) with interest @ 6% per annum with effect from 30.01.2018 i.e. the date of filing of the claim petition till the date of actual payment .O.P Owner namely, Sri Bhagyapada Noatia,S/O. Late Padma Singh Noatia, resident of Nroth Thakurcherra, P.O. Santirbazar, P.S. Santirbazar, District South Tripura will pay the amount of compensation with interest within 30 days from today.

Out of the awarded amount of compensation inclusive of interest, the petitioner no.1 will get 40% and the petitioner no.2 ,3 and 4 will get 20% each. Out of the share of petitioner no.1 and 2, 50% each of their respective share shall be kept in fixed deposit scheme in their respective names at the UCO Bank, District Court Branch, Agartala for a period of five years each and the remaining 50% of their respective share shall be paid to them through their respective bank account. The entire share of minor petitioners no.3 and 4 shall be kept in fixed deposit in their respective name in the same bank and branch till they become major i.e. upto the age of 21 years. No loan or withdrawal shall be permitted from any of the fixed deposit certificates without prior permission of the Tribunal. Petitioner no1 and 2 shall however be at liberty to withdraw monthly interest from their respective fixed deposit account to meet their day to day expenses. Petitioner no.1 being the natural guardian of the minor petitioners no. 3 and 4 shall also be at liberty to withdraw monthly interest from their fixed deposit account to meet their day to day expenses as well as the educational expenses etc."

6. Being aggrieved and dissatisfied with the judgment and award dated 27.05.2022 passed by the Ld. Motor Accident Claims Tribunal, West Tripura, Agartala, in T.S (MAC) No. 17 of 2018, the present appeal has been preferred by the appellant.

7. After perusal of the record, it is seen that no grounds has been made out to set aside the impugned order which is passed *ex-parte* against the OP owner i.e. the appellant herein. Learned counsel for the appellant placed

before the Court policy documents without serving it on the other side as per procedure, thus, the same cannot be taken on record and be part of the file. The client of the appellant has not shown any diligence to place the said policy before this Court as per procedure and has never follow the court proceedings before the tribunal and has not ever placed the said document before the tribunal. Hence the submission of the learned counsel for the appellant that there is a policy document to say that the vehicle is insured, have no weightage. He has never handed over the copy of the policy document to his counsel. It appears that the appellant is not serious and is not diligent in dealing towards judicial proceedings. For laches committed in this casual manner cannot be given any indulgence. Hence, the appeal is dismissed and the order passed by the learned tribunal in fastening the liability on the shoulder of the owner on the ground of *ex-parte* is affirmed. Moreover, the said policy is also not filed along with any appropriate application. Hence the same is not considered.

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 application(s) pending if any, shall stand closed. Draw the decree accordingly and thereafter, send down the LCRs forthwith.

JUDGE

Paritosh

SABYASACHI GHOSH
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