

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.119 OF 2023**

Smt. Sanju Sarkar(Das) Wife of Late Jayanta Das & Ors.

.....**Appellant(s)**

Versus

Sri Sukesh Deb & Anr.

.....**Respondent(s)**

For the Petitioner(s) : Mr. D. K DasChoudhury, Advocate.

For the Respondent(s) : Mr. S.D Choudhury, Advocate.

Date of hearing and delivery of
Judgment & Order : 21.06.2024

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(ORAL)**

Heard Mr. D.K Daschoudhury, learned counsel appearing for the appellants as well as Mr. S.D Choudhury, learned counsel appearing for the respondent- Insurance Company.

2. This present appeal has been filed under Section 173(1) of the M.V. Act 1988 against the judgment and award dated 19.03.2019 passed in T.S.(MAC) 26 of 2014 by learned Motor Accident Claims Tribunal, Court No.2, West Tripura Judicial District Agartala for modification of the award.

3. The appellants have prayed for the following reliefs:-

- i. Admit the appeal condoning the delay;
- ii. Pass an order staying execution of the impugned award under proceeding No. Civil Misc.112/2019 pending in the Court of learned MAC Tribunal, West Tripura, Agartala (Court No.1) and directing to recall the certificate issued vide No.2425 dated 20.07.2023 addressing the Collector, District Gomati, Tripura.
- iii. Notice the respondents;
- iv. Call for relevant records of case No. TS(MAC) 26/2014 and Civil Misc. 112/2019 in TS (MAC) 26/2014 from concerned learned MAC Tribunal;
- v. Pass an order absolving the appellants from the liability of payment of awarded compensation to the claimant-respondent 1 and direct the respondent 2 - the National Insurance Company Ltd. to pay the

compensation as awarded by the Tribunal under its order dated 19.03.2019 passed in TS (MAC) 26/2014;"

4. The gist of the claim petition filed by the claimant (respondent no.1 herein) in short is that on 01.02.2013 at about 10 am at Charilam near Charilam Class XII School on Bishramganj Charilam Bazar road under Bishalgarh PS when the victim Urmila Deb came out from her school after leave and was proceeding very slowly on the extreme left side of the road that time one vehicle bearing No. TR03-1248 (Bus) was coming from the side of Udaipur towards Agartala and the driver of the vehicle was driving the same rashly and negligently at a very high speed and dashed against the victim Urmila Deb resulting which the victim fell down on the ground and sustained grievous injuries on her person. After the accident the victim was brought to Bishramganj hospital from where she was referred to GB hospital, Agartala and was admitted therein as an indoor patient w.e.f. 01.02.2013 to 05.02.2013. But as the condition of the victim was serious so she was referred to SSKM Hospital, Kolkata by the doctor of GB Hospital and the victim was admitted in the SSKM Hospital, Kolkata on 06.02.2013 and stayed therein till 05.03.2013 when a major operation was done in the left hand on 18.02.2013 and in the meantime doctor of the said hospital again conducted one major operation on 01.03.2013 for recovery of other injuries and the victim was discharged from the hospital on 05.03.2013. But she was not cured fully and after that the victim was treated as an outdoor patient in the GB hospital and in the private chambers of the doctors. But she could not be fully cured. In this regard a police case was registered vide Bishalgarh PS case No. 26/2013 u/s 279/338 of IPC and according to the claimant-petitioner(respondent no.1 herein) the accident occurred due to rash and negligent driving of the driver of offending bus bearing No. TR03-1248.

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

"ORDER

16. In the result, the petition under Section 166 of the Motor Vehicles Act filed by the claimant-petitioner is hereby allowed on contest. The victim namely, Miss. Urmila Deb is awarded a sum of Rs. Rs. 3,48,400/- (Rupees three lacs forty eight thousands four hundred) only as compensation in this case for the injury sustained by the minor victim girl Miss. Urmila Deb.

The OP No. 1 being the owner of the vehicle bearing No. TR03-1248 (Bus) shall make payment of compensation as aforesaid to the claimant-petitioner within a period of 6(six) weeks. This amount shall carry interest @ 6% (six per cent) per annum from the date of presentation of the petition, i.e., on 10.01.2014 excluding the period from 02.07.2016 to 06.09.2018 (as per order of the Hon'ble High court dated 25.07.2018 passed in MAC APP 65 of 2016) before this Tribunal. If the aforesaid amount is not paid within the time in that case the owner of the offending vehicle bearing No. TR03-1248, i.e., OP No. 1 shall have to pay further interest @ 8% p.a. after expiry of 6 (six) weeks till the payment is made.

70% of the amount of compensation be deposited in the name of minor victim Miss. Urmila Deb in fixed deposit account till attaining her majority in UCO Bank, District Court Branch, Agartala (in pursuance of the judgment of Hon'ble High Court of Tripura in MAC APP No. 36 of 2006 dated 05.12.2013) and 30% of amount of compensation be released in favour of claimant-petitioner, i.e., father of minor victim Miss. Urmila Deb for meeting expenses of minor victim Urmila Deb for the expenses incurred by him.

No loan or withdrawal shall be permitted from the fixed deposit account without prior permission of this Tribunal.

The claimant petitioner is directed to furnish a photocopy of the Pass Book duly certified by the Bank having IFSC Code & MICR Code.

17. Supply a copy of judgment to the learned counsel for the claimant-petitioner free of cost.

Supply a copy of this judgment to learned counsel for the OP No. 1 for information and compliance.

18. The case is thus disposed of on contest."

6. Being aggrieved and dissatisfied with the judgment and award dated 19.03.2019 passed by the Ld. Motor Accident Claims Tribunal, Court No.2, West Tripura, Agartala, in T.S (MAC) No. 26 of 2014, the present appeal has been preferred by the appellant.

7. After perusal of the record, it is seen that the appellants herein contested the case by filing written objection but they did not adduce any oral or documentary evidence on record to substantiate the defence and also failed to prove the valid driving license of the driver of the offending vehicle and the insurance certificate, as such there is no scope to impose any liability upon the insurance company to pay the compensation.

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



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Paritosh

SABYASACHI
GHOSH

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