

**HIGH COURT OF TRIPURA
AGARTALA**

Mac.app 108 of 2023

Smti. Laxmi Sutradhar .

---Appellant(s)

Versus

Shri Dipak Prasadi and Anr.

---Respondent(s)

For Appellant(s)	:	Mr. J, Majumder, Advocate.
For Respondent(s)	:	Mr. K. De, 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. J Majumder, learned counsel for the appellant also heard Mr. K. De, learned counsel for the respondents.

[2] This is an appeal under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Award dated 07.11.2022 passed by the Learned Member Motor Accident Claims Tribunal, Court No.2, Gomati Judicial District, Udaipur in case No. TS (MAC) 48 of 2019.

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

- (i) *Admit this appeal;*
- (ii) *Issue notice upon the respondents;*
- (iii) *Call for the records of Case No.TS(MAC) 48 of 2019 from the Learned Motor Accident Claims Tribunal No.2, Gomati Judicial District, Udaipur;*
- (iv) *After hearing the respondents findings, reasoning and award of the Learned Tribunal dated 07.11.2022 in case No. TS(MAC) 48 of 2019 is required to be interfered by this Hon'ble Court by enhancing awarded amount including the interest;*
- (v) *Pass Judgment and Decree allowing the appeal;*
- (vi) *Pass any other order/s as deem fit and proper having regard to the facts and circumstances of the case.*

[4] The facts of the claimant-appellant, in short, are that on the fateful day of accident i.e. on 20.03.2019 at about 1400 hours the claimant-appellant along with her relatives were proceeding towards Amarapur from Maharani Bazaar Choumuhan after

boarding the vehicle bearing No. TR-03B-2369 (Auto rickshaw). On way near Thakchara bridge, the auto rickshaw got capsized due to rash and negligent driving of the driver of the said auto rickshaw. As a result the claimant-petitioner and other passengers received injuries on their persons. The claimant-petitioner received grievous fracture injuries and multiple bleeding injuries all over her body. Soon after the accident the claimant-petitioner was taken to Amarpur Sub-Divisional Hospital by Fire Service vehicle and considering the gravity of injuries she was referred to Gomati District Hospital, Udaipur. Therefrom, she was further referred to AGMC & GBP Hospital, Agartala where she was treated as an indoor patient till 26.04.2019. Thereafter she was discharged from the hospital with advice to attend the OPD (Ortho).

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

In the result, it is hereby ordered that the claimant petitioner is entitled to get compensation of ₹37,119.39 + ₹24,000/- + ₹20,000/- = ₹81,119.39/- rounded off ₹81,119/- (Rupees eighty one thousand one hundred nineteen) only. The OP No.2, Shriram General Insurance Company Ltd., the insurer of vehicle bearing registration No.TR-03B-2369 (Auto rickshaw) is directed to make the payment of compensation to the claimant-petitioner within 30 (thirty) days from today along with interest thereon @ 6% per annum from the date of filing of claim petition, i.e., from 05.12.2019 till payment / realisation of the same.

[6] Being aggrieved by and dissatisfied with the judgment and award dated 07.11.2022 passed in connection with T.S.(MAC) 48 of 2019 by the learned Member, Motor Accident Claims Tribunal No.2, Gomati Judicial District, Udaipur, the present appeal has been preferred by the appellant.

[7] After perusal of the record, it appears to this court that the injured was 59 years of age at the time of accident. The claimant petitioner also could not produce any document to prove his monthly income. Therefore, drawing an inference that Rs.8000/- could be the monthly income of the claimant-appellant to calculate the loss of future income can be easily presumed. The disability certificate placed by the claimant-appellant before this court is issued much after the date of award of the learned Tribunal. Hence, it

appears to this court the claimant-appellant has not approached this court with clean hands and the instant appeal is liable to 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



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