

**HIGH COURT OF TRIPURA
AGARTALA**

Mac.app 105 of 2023

Smti. Sabita Das and 04 Ors.

---Appellant(s)

Versus

Sri Bappi Dey and 03 Ors.

---Respondent(s)

For Appellant(s)	:	Mr. PS Roy, Advocate.
For Respondent(s)	:	Mr. AK Pal, Chakraborty, Advocate. Ms. M. Chakraborty, 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. PS Roy, learned counsel for the appellant also heard Mr. A.K Pal and Ms. M. Chakraborty, 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 17.08.2023 passed by the Learned Member Motor Accident Claims Tribunal, Court No.1, West Tripura, Agartala in TS (MAC) 192 of 2019.

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

- (i) *Admit this appeal;*
- (ii) *Call for records;*
- (iii) *Issue notice upon the respondents*
- (iv) *Pass judgment and award setting aside, cancelling and/or reversing the judgment and award passed by the Ld. Motor Accident Claims Tribunal (Court NO.1) West Tripura, Agartala in case No. TS(MAC) 192 of 2019;*
- (v) *Pass judgment and award enhancing the quantum of compensation awarded by the Ld. Tribunal;*
- (vi) *Grant such further or other reliefs to which the claimant-appellants may be entitled to*
- (vii) *Pass any other appropriate order or direction as Your Lordship deem fit and proper.*

[4] The succinct facts of the case of the claimant-appellants as stated in the claim petition is that on 03.06.2019 the victim Narayan Chandra Das was proceeding

towards his residence from Gautamnagar Water Pump Office by a Motor Bike bearing registration No. TR-01-T- 4531 as a pillion rider with a moderate speed keeping the left side of Prabhurampur - Bishalgarh Road. When he reached near the main gate of Bishalgarh Central Jail at about 5.30 p.m., at that time, the Maruti EECO bearing registration no. TR-01-AH-0312 coming from opposite direction with high speed and in a rash and negligent manner dashed against the motor bike of the victim. As a result, the victim fell down on the road from the motor bike and sustained severe injuries on his person. Soon after the accident the victim was taken to the Bishalgarh Hospital wherefrom he was referred to the AGMC & GBP Hospital, Agartala wherein he got admitted on 03.06.2019 but he succumbed to the injuries on 15.06.2019 in the said hospital and thereby they incurred Rs.1,00,000/- for the treatment of his injuries. Concerning the said accident, a police case was registered with the Bishalgarh Police Station vide Bishalgarh P.S. Case No.72 of 2019 under Sections 279/338/304A 1.P.C. and Section 184 of M.V. Act. It is also stated in the claim petition that the deceased was aged about 55 years at the time of death and he used to earn Rs.50,000/- per month being a government servant serving under Water Resource Department, Government of Tripura. Finally, the claimant petitioners claimed compensation to the tune of Rs.97,50,000/- in total.

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

It is therefore, held that the claimant petitioners are entitled to get compensation of Rs.59,72,700/- (Rupees Fifty-nine Lakh Seventytwo Thousand Seven Hundred only) with interest @ 9% per annum with effect from 16.09.2019 i.e. the date of filing of the claim petition till the date of actual payment as per Judgment dated 17.10.2022 passed in CA No.7593 of 2022 of the Hon'ble Supreme Court of India. The Opposite Party No.2 and 3 namely. Bajaj Allianz General Insurance Company Ltd. jointly and severally will pay the amount of compensation with interest within 30 days from today in terms of Section 168(3) of M.V. Act, 1988.

Out of the awarded amount of compensation inclusive of interest, the claimant petitioner no.1 will get 40% and the claimant petitioners no.2, 3, 4 and 5 will get 15% each. Out of the respective share of claimant petitioners, 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 shall be paid to them through their respective bank account. The claimant petitioners shall however be at liberty to withdraw monthly interest from their fixed 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.

[6] Being aggrieved by and dissatisfied with the judgment and award dated 17.08.2023 passed in connection with T.S.(MAC) 192 of 2019 by the learned Member, Motor Accident Claims Tribunal No.1, West Tripura, Agartala, the present appeal has been preferred by the appellant.

[7] After perusal of the record, it appears to this court that the deceased used to earn Rs.57,701/- per month as he was an Ex. Pump Operator. Thus, considering Rs.57,701/- as the monthly income of the deceased, the compensation of Rs.59,72,700/- (Rupees Fifty nine Lakh Seventy two Thousand Seven Hundred only) was awarded by the Ld. Tribunal. A bare reading of the record shows that the learned tribunal has taken into consideration all aspects with regard to compensating the claimants. But the claimant-appellants are before this court for enhancing the quantum of compensation awarded by the Ld. Tribunal that cannot be granted at this juncture and this court is of the view that this appeal may 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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