

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.110 of 2024

1. Smt. Tandra Debnath (Age 30 years), W/O- Late Surajit Debnath,
2. Miss Usmita Debnath (Minor) (7 years), D/O- Late Surajit Debnath,
Both are residents of Bengali Para, Debdaru, Jolaibari, P.O.- Debdaru, P.S.-
Baikhora, District- South Tripura.

Presently residing at:- C/O- Shri Krishna Debnath, S/O- Shri Mantu Debnath,
of Natun Nagar, Deshbandhu Para, P.O.- Barjala, District- West Tripura, Pin-
799002.

.....Petitioner(s);

Versus

1. Shri Swapan Debnath, S/O- Late Bhola Debnath, F/O- Late Surajit Debnath,
2. Smt. Jyoti Debnath, W/O- Shri Swapan Debnath, M/O- Late Surajit Debnath,
Both are residents of Bangali Para, Debdaru, Jolaibari, P.O.- Debdaru, P.S.-
Baikhora, District- South Tripura.

3. Shri Uttam Debnath, S/O- Late Madhu Debnath,
Resident of North Muhuripur, P.O.- Muhuripur, P.S.- Baikhora, District- South
Tripura, Pin-799142.

4. Bajaj Allianz General Insurance Company Limited, represented by its Legal
Officer (Executive) Seerji Tower 3rd Floor, C/O- Gauhati Tea Ware Housing
Pvt. Ltd., Adjacent to Mahindra Showroom, Near Ganeshguri Flyover,
Christian Basti, Ulubari, Guwahati, Pin-781005.

.....Respondent(s).

For Petitioner(s) : Mr. Kousik Roy, Advocate,
Mr. Rohan Chakraborty, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

11/12/2024

Heard Mr. Kousik Roy, learned counsel for the petitioners.

2. The father-in-law has instituted T.S. (MAC) 09 of 2023 on
20.03.2023 before the learned Member, MACT, Sonamura, Sepahijala District
for compensation on account of the death of his son and the husband of the
present petitioner No.1 and father of the petitioner No.2 by joining both of them
as claimants. The deceased was a pillion rider on a motor cycle bearing No.TR-

07-D-5363 which met with an accident on way to Birchandra Manu by a Commander Jeep bearing No.TR-01-A-3332 on 05.11.2022. The present petitioners herein filed another claim for compensation bearing No. T.S. (MAC) 83 of 2023 before learned Member, MACT, Agartala, West Tripura on 01.05.2023 in which Smt. Jyoti Debnath, mother-in-law of petitioner No.1 has also been impleaded as one of the claimants. However, the father-in-law Sri Swapan Debnath has not been impleaded in the second case i.e. T.S. (MAC) 83 of 2023.

3. By the impugned order dated 02.09.2024, the learned Member, MACT, Sonamura, Sepahijala District has refused to drop the claimant No.1 in T.S. (MAC) 09 of 2023 who is the father-in-law of the present petitioner No.1, on the ground that he was not the Class-I legal heir on a petition under Section 151 of the CPC filed by the present petitioner No.1. The learned Member, MACT, Sonamura has discussed the sequence of dates and events and come to the opinion that since in T.S. (MAC) 09 of 2023 all the legal heirs of late Surajjit Debnath have been impleaded as claimants, the petition does not suffer from any defect or irregularity.

4. T.S. (MAC) 83 of 2023 was filed on 01.05.2023, about two months after filing of T.S. (MAC) 09 of 2023 relating to the same cause of action and relief and as such, it suffers on the ground of *res sub judice*. The petition under Section 151 CPC was rejected as without any merit. The case has been fixed for examination-in-chief of the plaintiff witnesses. Being aggrieved, the present petitioners who are widow and minor daughter of the deceased are before this Court.

5. I have considered the submission of learned counsel for the petitioners and taken note of the relevant materials placed from record. I have also gone through the impugned order.

Petitioners do not dispute that they are also the claimants in T.S. (MAC) 09 of 2023. However petitioner No.1 alleges that her signatures were taken surreptitiously by the father-in-law who instituted a case before the learned MACT, Sonamura, Sepahijala District though he is not a Class-I legal heir in terms of The Schedule of the Hindu Succession Act, 1956 for getting compensation for the accident in which her husband died. However since for the same cause of action and relief, T.S. (MAC) 09 of 2023 filed prior in point of time by the same parties is on trial, the second claim case at the behest of some of the same parties cannot be continued on grounds of principles of *res sub judice* under Section 10 of the CPC. The learned Member, MACT, Sonamura was therefore right in refusing to entertain the petition under Section 151 CPC for dropping the father-in-law as claimant No.1.

6. It goes without saying that learned Member, MACT, Sonamura has to decide the claim for compensation in accordance with law. Compensation if any so determined is to be disbursed in favour of the rightful claimants. Since petitioner No.1-widow and petitioner No.2-minor daughter are already claimants in the said petition before learned MACT, Sonamura, they are at liberty to raise all points of law and facts. Learned counsel for the petitioners submits that petitioners may be allowed copy of the pleadings and other documents of the said case. It goes without saying that on an application being made subject to usual charges, the copy of the pleadings and relevant

documents be supplied by the concerned MACT, Sonamura to the petitioners to prosecute the case. If petitioners are interested in getting legal aid being a female and a minor in terms of Section 12(c) of the Legal Services Authorities Act, 1987, the learned Member, MACT, Sonamura would direct the DLSA, Sonamura to provide legal aid to the petitioners.

7. With these observations, the instant petition is disposed of. This Court is not inclined to interfere in the impugned order dated 02.09.2024. However, petitioners being the claimants in the said TS(MAC) 09/2023 before the MACT, Sonamura would be entitled to present their claim apart from the other claimants like the father in law of the petitioner No.1.

8. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ

Pijush/

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