

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.115 OF 2023**

The Divisional Manager, The National Insurance Company Ltd.
.....**Appellant(s)**

Versus

Smt. Sukla Debnath & Ors.
.....**Respondent(s)**

For the Petitioner(s) : Mr. S. Chakraborty, Advocate.

For the Respondent(s) : Mr. S. Lodh, Advocate.
Mr. K. Roy, Advocate.

Date of hearing and delivery of
Judgment & Order : 08.07.2024

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. S. Chakraborty, learned counsel appearing for the appellant –Insurance Company as well as Mr. S. Lodh, learned counsel appearing for the respondents.

2. This present appeal has been filed under Section 173 of the M.V. Act 1988 read with section 168 of the Act, filed by the appellant insurance company challenging the judgment and award dated 08.06.2023 passed by learned Motor Accident Claims Tribunal, No.5, West Tripura Agartala in T.S (MAC) 35 of 2021.

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

- i. Admit this appeal;
- ii. Call for records relevant to the subject matter of the case from the Learned Motor Accident Claims Tribunal, Court No.5, West Tripura, Agartala pertaining to the case No. T.S (MAC) 35 of 2021.
- iii. After hearing the parties be pleased enough to set aside/quash and modify the impugned judgment and award dated 08.06/2-23, passed by the

Learned Motor Accident Claims Tribunal, No.5, West Tripura, Agartala in Case No. T.S. (MAC) 35 of 2021, and may be kind enough to pass an appropriate order in terms of the law laid down by the Hon'ble Apex Court by passing the various judgments in this regard, for the fair ends of justice.

- iv. Pending disposal of the present appeal, stay the operation of the impugned judgment and award dated 08.06.2023 in Case No. T.S. (MAC) 35 of 2021, passed by the learned Motor Accident Claims Tribunal Court No.5, West Tripura, Agartala".

4. The brief fact of the case is that on 06.05.2019 Ratan Debnath (now deceased) after purchasing some vegetable goods from Guwahati market was proceeding towards Madanpur under the jurisdiction of Changsari Police station by the vehicle bearing Registration NO. TR-01-AJ-1642 (SML- Truck) along with his vegetable goods. During the journey at about 15.00 hours to 16.00 hours when the said vehicle reached near Madanpur at that time due to the rash and negligent driving of the driver of the said Truck, the driver of the said vehicle lost his control over the said truck and capsized on the road and met with an accident. As a result Ratan Debnath (now deceased) sustained grievous injury on his head, chest, left upper limb and he also got injuries in his various parts of his body due to the said unfortunate accident. Immediately thereafter injured Ratan Debnath was taken to Kamrup Civil Hospital, by the help of others people who were present at the relevant point of time where after few minutes the attending doctor of the said hospital declared him dead.

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

"Order/Award

The OP No.2, The National Insurance Company Ltd is directed to deposit the awarded compensation of Rs. 25, 52,416/-. (Rupees twenty five lakhs fifty two thousand four hundred sixteen) only within 30 days from today with interest thereon at the rate of 7.5% per annum with effect from date of filing of the claim application i.e., from 17.02.2021 to till realization of the full.

Distribution of Compensation

The claimant No.1 being widow is entitled to get 50% of the compensation and claimant No. 2 to 4 are equally entitled to the rest compensation.

Protection Awarded Compensation

Sixty percent (60%) of the amount of compensation of claimant No.1 to 4 are to be deposited for five years and the rest amount are to be released in their favour in their bank account.

In case of necessity, the Tribunal can be approached for withdrawal fixed deposited amount. On maturity of the fixed deposits the Banker shall credit the amounts to the sole SB Accounts of claimant No.2 without any further order from the Tribunal. Furnish a copy of the award to both sides. The case stands disposed of on contest. Make necessary entry in the TR and CIS".

6. Being aggrieved and dissatisfied with the judgment and award dated 08.06.2023 passed by the Ld. Motor Accident Claims Tribunal, Court No.5, West Tripura, Agartala, in T.S (MAC) No. 35 of 2021, the present appeal has been preferred by the appellant- Insurance Company.

7. Mr. S. Chakraborty, learned counsel appearing for the appellant- Insurance Company submits before this Court that the learned Court below had erroneously treated the age of the deceased victim to be 45 years on the date of accident basing solely upon the school certificate of the deceased which was exhibited without examining the issuing authority of the school, whereas in the claim petition as well as in the examination-in-chief of the claimant's witness the age of the deceased victim was mentioned as 49 years at the time of accident. Hence he prayed the impugned judgment is liable to be interfered with.

8. Mr. S. Lodh, learned counsel appearing for the respondents submits that deceased was a vegetable seller and after purchasing some vegetable goods from Guwahati market met with an accident. He further placed reliance on the ocular statements.

9. Heard and perused the evidence on record.

10. On perusal of the record, it is seen that the deceased was carrying vegetable goods all the way from Guwahati, died on the fateful day after his vehicle was capsized on the road and met with an accident. When the claimants first approached to the learned tribunal for seeking compensation, the learned tribunal after dealing with the case and after examining the materials, so placed

had arrived in the conclusion that the insurance company is liable to pay the compensation to the claimants. Aggrieved by the said impugned order, the insurance company has approached this court. On perusal of the record, it is seen that the age of the deceased was 45 years and applying multiplier of 14 to the age of the deceased as per **Sarla Verma and Others v. Delhi Transport Corporation and another, 2009 (6) SCC 121**, is just and proper.

11. 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

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