

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.113 OF 2023**

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

Versus

Smt. Supriya Dey (Majumder) & Anr.
.....**Respondent(s)**

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

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

Date of hearing and delivery of
Judgment & Order : 01.07.2024

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)**

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 12.07.2023, passed by the learned Motor Accident Claims Tribunal no.4, West Tripura, Agartala in case No. T.S. (MAC) 25 OF 2019.

2. 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.4, West Tripura, Agartala pertaining to the case No. T.S. (MAC) 25 of 2019 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.
- iii. Pending disposal of the present appeal, stay the operation of the impugned judgment and award dated 12.07.2023 in Case No. T.S (MAC) 25 of 2019 passed by the Learned Motor Accident Claims Tribunal Court No.4, West Tripura, Agartala.

3. The broad facts leading to the case are that on 15.12.2017 at about 1200 hrs. victim Sudipa Majumder, minor daughter of the claimant petitioner (Claimant Respondent no.1 herein) , was returning to her residence from Central School, Kunjaban and on arriving near their house at Town

Indranagar on G.B. Road, suddenly one maruti vehicle bearing TR-01-AJ-0445 moving with high speed in rash and negligent manner dashed the victim girl. The victim fell down on the road and sustained multiple injuries on her person. Instantly she was taken to GBP Hospital by the local people where she got admitted from 15.12.2017 to 23.12.2017. But being not fully cured she had to be admitted in the Ortho Care and Related Centre, Kalyani, Agartala from 26.12.2017 to 01.01.2018 for better management where on 29.12.2017 an operation was done on her right leg. After that the victim also took treatment from the OPD of GBP Hospital as well as by private doctors. It is also alleged that the accident occurred due to reckless and irresponsible driving of the offending vehicle by its driver. It is further contended that the victim sustained the injuries while she was a school going girl aged about seven years and due to such injuries she had received severe trauma on head which also badly affected her entire education carrier.

4. The learned Tribunal below as against the claim of Rs.13,30,000/- passed the award in favour of the claimants in the following terms:-

" O R D E R

13. In the result, the application under section 166 of the M.V. Act, 1988 filed by the claimant, Smt. Supriya Dey (Majumder) is allowed on contest.

(i) The claimant petitioner is entitled to a sum of Rs.5,60,000/- (Rupees five lakhs sixty thousand) only as compensation for sustaining injury of her minor girl namely, Sudipa Majumder.

(ii) O.P. No.2, the National Insurance Co. Ltd. being insurer of the offending vehicle bearing No. TR-01-AJ-0445 shall deposit the awarded amount along with interest thereon within one month from this day with this Tribunal.

(iii) The amount of compensation shall carry interest @ 9% per annum from the date of presentation of the claim petition before the Tribunal on 30.01.2019 till realization.

(iv) Copy of this order so awarded to be served upon the parties not later than 15 days from the date of this award.

(v) The case is disposed on contest.

(vi) Enter the result."

5. Being aggrieved and dissatisfied with the judgment and award dated 12.07.2023 passed by the learned Motor Accident Claims Tribunal no.4,

West Tripura, Agartala in case No. T.S. (MAC) 25 OF 2019 the present appeal has been preferred by the appellant.

6. Heard Mr. S. Chakraborty, learned counsel appearing for the appellant-Insurance Company. Also heard Mr. S. Das, learned counsel appearing for the respondent no.1.

7. Mr. S. Chakraborty, learned counsel appearing for the appellant-Insurance Company submits before this Court that the award of compensation as passed by the learned court below is unsustainable in the eye of law and needs to be interfered with. Mr. Chakraborty, learned counsel further submits that 9% interest is on higher side and the same needs to be reduced.

8. Heard and perused the evidence on record.

9. This Court in all related matters are fixing 7.5% interest and to maintain uniformity while comparing the bank rate of interest which is also much less. Consequently, the claimant would be entitled compensation as per the award passed by the learned Court below along with 7.5% interest per annum instead of 9% as awarded by the learned tribunal below, with effect from the date of presentation of the claim petition till the date of actual payment. The awarded amount shall be deposited by the insurance company within a period of one month from the date of receipt of the copy of this order, if not deposited. However, it is made clear that on such deposit, the claimant respondent is at liberty to withdraw the same unconditionally as per procedure. This Court further directs the remaining order as passed by the learned court below shall remain un-altered.

10. In the light of the above, the present appeal stands partly allowed. As a sequel, miscellaneous application pending, if any, shall stand closed. Draw the decree accordingly and thereafter, send down the LCRs forthwith.

JUDGE

Paritosh

SABYASACHI GHOSH
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