

**HIGH COURT OF TRIPURA
AGARTALA**

MAC.App 12 of 2025

Branch Manager, Edelweiss General Insurance Company Ltd.

---Appellant(s)

Versus

Smti. Jhuma Bhowmik (Majumder) and 2 Ors.

---Respondent(s)

For Appellant(s)	:	Mr. P. K. Ghosh, Advocate.
For Respondent(s)	:	Mr. Bimal Deb, Advocate.
		Mr. Abhijt Das, Advocate.
		Mr. Goutam Das, Advocate.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

Judgment & Order (Oral)

25.08.2025

[1] This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 08.12.2023 passed in Case No. TS(MAC) 26 of 2021 by Member, Motor Accident, Claims Tribunal, Tribunal No.2, West Tripura, Agartala, awarding Rs.26,30,000/- (Rupees Twenty Six Lakh Thirty Thousand) only against the Appellant- Opposite party No.2, Branch Manager, Edelweiss General Insurance Company Limited with 7.5% interest per annum from the date of filing of the claim petition i.e. from 30.01.2021 till the date of realization.

[2] It is the case of the claimants that on 03-08-2019 at about 1300 hours the deceased Koushik Baran Majumder along with his friend Tamal Deb were proceeding from Rabindra Bhavan-KFC Chowmuhanu towards L. N. Bari Road by a motor cycle and when he reached near Durgabari Petrol Pump one Truck bearing No. TR-01-A-1558, which was coming with a very high speed, dashed the motor bike and as a result both rider and pillion rider sustained grievous bleeding injuries and immediately both were shifted to AGMC & GBP Hospital for treatment, but Koushik Baran Majumder succumbed to his injuries at GBP Hospital at 2-30 pm on the same day. It is also stated that because of pre-mature death of Koushik Baran Majumder the petitioner No. 1 lost her conjugal life and petitioner No. 2 lost love and affection of his father. It is further stated that at the time of accident deceased was 37 years old having business of fishery and stationary at Kalyanpur Bazar, Khowai with monthly income of Rs. 30,000/-.

[3] It is also pleaded that the accident occurred because of rash and negligent driving of truck driver and a police case bearing No. 2019 WAG 170,

dated 03-08-2019 under Section 279/304(A) of the Indian Penal Code was registered.

[4] Opposite party No. 1 in his written statement stated that his vehicle bearing No. TR-01-A-1558 (Truck) was insured with Edelweiss General Insurance Company Limited, i.e. opposite party No. 2 with policy bearing No. 900009662 with validity from 05-12-2018 to 04-12-2019. Opposite party No. 1 denied the averments of the claim.

[5] Opposite party No. 2 in written statement also denied the averments of the claim-petition, but pleaded that the Truck bearing No. TR-01-A-1558 was driven without valid fitness and permit on the date of accident and so denied the liability.

[6] Opposite party No. 3 in his written statement stated that the non-offending motor cycle bearing No. TR-06-7418 was insured with National Insurance Company Limited vide policy bearing No. 206084311810003867 with validity from 2002-2019 to 19-02-2020. He also clarified that he was the ex-owner of motor cycle bearing No. TR-06-7418, but policy remained in his name at the time of accident.

[7] Opposite party No. 4 i.e. the insurer of motor cycle bearing No. TR06-7418 stated that there was no rash and negligent driving on the part of motor cycle bearing No. TR-06-7418 and also stated that the liability, if any, be shifted upon the owner of the Truck bearing No. TR-01-A-1558.

[8] On the basis of pleadings following issues were framed:

(i.) *Is the claim maintainable in its present form and nature?*

(ii.) *If the death of the deceased was caused on the alleged date time and place due to road traffic accident on account of rash and negligent driving on the part of the driver of the alleged vehicle? If so, are the claimant petitioners entitled to get compensation as prayed for?*

(iii.) *What should be the quantum of compensation and who shall be held liable to pay the compensation?*

[9] The learned court below, upon consideration of the case and perusal of the records, has observed as under:

30. The instant application under Section-166 of the Motor Vehicles Act, 1988 filed by the claimant-petitioners is hereby partly allowed and a sum of Rs.26,30,000.00 (Rupees Twenty Six Lakh Thirty Thousand) only is awarded in favour of claimant – petitioners as compensation for the death of Koushik Baran Majumder, in a Road Traffic Accident, as aforesaid, and thus whole amount of compensation shall be paid by OP No.2, i.e. the Edelweiss General Insurance Company Limited., within a period of one month from today. The aforesaid amount shall carry interest @ 7.5% per annum to be paid from the date of filing of claim-petition, i.e., from 30.01.2021 till the date of payment. The petitioners are equally entitled to the aforesaid awarded amount in 50-50 ratio.

31. In the event of deposit of the Awarded amount with interest, Rs.5,00,000.00 shall be released in favour of the claimant-petitioner Nos.1

out of her share, in her individual bank account for enabling her to meet necessary expenses for her sustenance as well as for the education and well-being of her daughter and the rest amount shall be kept in numbers of fixed deposit schemes each with Rs.2,00,000.00 in any Nationalized Bank for five years in her name as per their share. However as claimant-petitioner No.2 is minor so her entire share along with proportionate interest, shall be kept in a fixed deposit scheme in a Nationalized Bank for a period of five years or for the period till attainment of her majority, whichever is later.

32. No loan or withdrawal shall be permitted in the fixed deposit account nor joint name shall be allowed nor any cheque book, ATM card can be issued against fixed deposit account. However the interest to be credited in the fixed deposit may be released in favour of the claim-petitioners, except minor, as per Bank's norms.

[10] Aggrieved by the said impugned order dated 08.12.2023, the appellant insurance company has approached before this court seeking the following relief(s):

- a) Admit the appeal,*
- b) Call for the lower Court record of Case No.TS(MAC) 26 of 2021 from the Court of Ld. Motor Accident Claims Tribunal, West Tripura, Agartala.*
- c) Issue notice upon the respondents,*

AND

- d) After giving an opportunity, your Lordship may be pleased to set aside the impugned judgement/award dated 08.12.2023 passed by the Ld. Motor Accident Claim Tribunal, West Tripura, Agartala, Tribunal No.2, in Case No. TS(MAC) 26 of 2021,*

[11] It is contended by the counsel for the appellant that the Ld. Tribunal based on no specific income proof and about the nature of profession being professed by the claimant, arrived at a erroneous conclusion that the income of the claimant-respondent was @Rs.15,000/- per month which is perverse. It is further contended that Ld. Tribunal wrongly awarded Rs.26,30,000/- as compensation adding 7.5% interest per annum. But the interest shall not exceed more than 5-6% per annum as the Nationalized Banks are not allowing, interest more than 5% per annum and as such, the judgment & award passed by the Ld. Tribunal is liable to be set aside.

[12] On the contrary, learned counsel appearing on behalf of the claimants vehemently opposed the submissions advanced on behalf of the appellant–Insurance Company. It was contended that the impugned order passed by the learned Tribunal is just, proper, and well-reasoned, having been passed after due appreciation of the evidence and materials available on record. It was further argued that the Tribunal has committed no error, either factual or legal, warranting interference by this Court in exercise of its appellate jurisdiction. Hence, the appeal preferred by the Insurance Company deserves to be dismissed in limine.

[13] Heard learned counsel for the parties.

[14] Having considered the rival submissions, this Court finds that the learned Tribunal has minutely examined the oral as well as documentary evidence

and has applied the settled principles of law while determining the monthly income of the deceased in absence of direct income proof. The notional income of Rs.15000/- per month assessed by the Tribunal is neither exorbitant nor unreasonable, particularly in light of the age, profession, and earning capacity of the deceased, as established on record.

[15] With respect to the rate of interest, it is well settled by a catena of judgments rendered by the Hon'ble Supreme Court as well as by this High Court that ordinarily, interest in motor accident claim cases is awarded at a uniform rate between 7% and 9% per annum, depending on the facts and circumstances of each case. Therefore, the rate of interest awarded by the learned Tribunal at 7.5% per annum is apt, proper, and strictly in conformity with the settled principles of law.

[16] Further, this Court cannot lose sight of the fact that the appellant—Insurance Company has not approached this Court with clean hands. Except for making bald assertions, the appellant has failed to place any cogent evidence or legal basis to substantiate its grounds of challenge. The appeal is based on vague and unsubstantiated pleas, and the Insurance Company has miserably failed to prove its case.

[17] In view of the above discussion, this Court is of the considered view that the findings recorded by the learned Tribunal are apt, proper, and based on correct appreciation of the evidence. The award does not suffer from any illegality, perversity, or jurisdictional error which may warrant interference in appellate jurisdiction.

[18] Accordingly, the appeal preferred by the Insurance Company is dismissed. The judgment and award dated 08.12.2023 passed in Case No. TS(MAC) 26 of 2021 by Member, Motor Accident, Claims Tribunal, Tribunal No.2, West Tripura, Agartala, is hereby affirmed. The appellant Insurance-Company to deposit the compensation amount in one month from today, if not already deposited. On such deposit, the respondent-claimants are at liberty to withdraw the same unconditionally as per procedure.

[19] As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

Dipak

DIPAK DAS
Digitally signed by
DIPAK DAS
Date: 2025.08.28
16:35:11 +05'30'