

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.03 of 2025

1. Sri Dharendra Ch. Debnath and 3 Others.

..... Appellants

-V E R S U S-

1. Sri Mrityunjoy Sutradhar and Another

..... Respondents

B E F O R E
HON'BLE MR. JUSTICE T. AMARNATH GOUD

For Appellant(s)	:	Mr. S. Majumder, Advocate.
For Respondent(s)	:	Mr. R. G. Chakraborty, Advocate.
Whether fit for reporting	:	YES/NO

Judgment and order dated 19th May, 2025

JUDGMENT & ORDER [ORAL]

Heard Mr. S. Majumder, learned counsel appearing for the appellants also heard Mr. R. G. Chakraborty, learned counsel appearing for the respondents.

[2] The present appeal has been filed under Section-173 of the Motor Vehicles Act, 1988 against the impugned judgment and award dated 25.06.2024 passed by the learned Member, Motor Accident Claims Tribunal, West Tripura, Agartala, Tribunal No.4 in connection with T.S. (MAC) No.153 of 2019.

[3] Case unfolded in the claim petition is that on 27.01.2019 the deceased Subhashini Debnath was proceeding for Nalgaria from Kriishnatal on foot maintaining left side of the road and when she reached the occurrence place the offending motor cycle bearing registration No. TR 01 AB-5500 proceeding from Jirania side with high speed in a rash and negligently way dashed said Subhashini Debnath causing multiple grievous injuries to her. Though with the aid fire service vehicle the local people brought her to the A.G.M.C. & G.B.P hospital, Agartala her life could not be saved and she was declared dead.

[4] Having heard the learned counsel appearing for the parties and gone through the material evidence on record, the learned Court below has observed as under:

“22. In the result, the instant claim petition is allowed on contest for an award of Rs.7,23,050/- (Rupees Seven Lakh Twenty-three Thousand and Fifty) only as compensation.

23. The amount of compensation shall carry interest @ 9% per annum from the date of presentation of the claim petition before this Tribunal on 05.08.2019 till realization.

24. The O.P. No.2, Reliance General Insurance Company Limited shall deposit the amount of compensation awarded to this Tribunal within a period of 30 (thirty) days from the date of award in terms of Section 168(3) of the Act.

25. As a measure to protect the compensation money, the disbursement of the compensation be made in the following manner: a) An amount of Rs. 75,000/- (Seventy-five thousand) shall be directly paid to the each of the claimants by transferring the same to their individual bank account operating singly.

b) The rest amount be invested in Fixed Deposit in the name of the claimant-petitioners in equal share by purchasing Fixed Deposit Certificates from any Nationalised Bank(preferably the UCO, Bank District Court Branch, Agartala) for a period of five years with auto renewal facility and the claimant petitioners shall open savings accounts in the same bank. No loan or advance or pre-mature withdrawal shall be allowed without prior sanction of this Tribunal. The interest accrued on the fixed deposit certificates shall be directly transmitted to the savings account of the claimant-petitioners by the concerned bank. The concerned bank shall retain the original fixed deposit certificates and the copies of the certificates to be handed over to the claimant petitioners.”

[5] Learned counsel appearing for the appellants has submitted that the impugned judgment and award is bad in law on account of misreading of pleadings of the parties and evidence on record. The learned Court below committed serious mistake in determining the income of the deceased @4,500/- per month i.e. Rs.54,000/- per annum. If the claimant-appellants failed to prove the profession of the deceased, the learned Court below ought to have treated the deceased as unskilled labour. As per notification of this Court dated 04.08.2023, the learned Court below ought to have assessed the income of the deceased at Rs.10,000/- per month i.e. Rs.1,20,000/- per annum and hence, the impugned judgment and award is liable to be interfered with.

[6] The learned Court below committed serious mistake in keeping the lion share of the awarded money in fixed deposit scheme in a nationalized bank preferably UCO Bank, District Court Branch, Agartala for a period of five years. All the appellants are major and hence keeping their share in fixed deposit in uncalled for.

[7] The respondent No.1 admitting the accident and resulting death of the deceased, denied the allegation of rash and negligent riding. He also prayed for fastening the liability for compensation if any, upon the respondent No.2 contending that the offending motor cycle was under insurance coverage from the insurer against any third party liability. The insurance company also contested the claim by denying and disputing all the material averments of the claimants and its liability.

[8] In view of above and having heard the learned counsel appearing for the parties this Court is of the opinion that the computation of income/earning capacity of an homemaker on the basis of gratuitous services rendered by her towards performing household chores as well as care and look after of her family members, the income of such homemaker would be higher in side. So far the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation, on the basis of services rendered by them to the house.

[9] In view of above analogy, let us find out the just and fair compensation. It is found that the claimant-appellants are the LR's. of the deceased and accordingly, they are entitled to loss of dependency. The learned Court below has assessed Rs.4,500/- per month but on the basis of gratuitous services rendered by her towards performing household chores as well as care and look after of her family members, the income of such homemaker as per notification of this Court dated 04.08.2023, the monthly income of the deceased would be Rs.10,000/- per month i.e. Rs.1,20,000/- per annum.

[10] As per the guideline issued by the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi, (2017) 16 SCC 68***, an addition of 10% in the form of future prospect is be added to the annual income of the deceased who was in the age group of 50 to 60 years and a

deduction of 1/4th therefrom, since the deceased left 4 dependents. The appropriate multiplier in this case is 11 in terms of the judgment of the Hon'ble Supreme Court in the case of Sushma affirmed in the case of **Pranay Sethi (supra)**. The claimant No. 1 is the husband of the deceased, the claimant No. 2 is the son and the claimants NO. 3 & 4 are daughters. As per decision of the Hon'ble Supreme Court in Magma General Insurance Co. Ltd. Vs. Nanu Ram, (2018) 188 SCC 130, the claimant No. 1 is entitled to be compensated for loss of spousal consortium and the rest each are entitled to parental consortium.

[11] Keeping in view of the above factors discussed above, the compensation is assessed as follows:

Head	Amount
A	Loss of dependency i. Annual income of deceased Rs.1,20,000/- ii. Future prospect : Rs.12,000/- (10% added deceased being between 50 to 60 years) iii. The sum total (i + ii) i.e. (Rs.1,20,000+ 12,000) = Rs.1,32,000/- iv. 1/4 deduction for personal expenses (Rs.1,32,000 -33,000/- = Rs.99,000/- v. Applying multiplier 11 (Rs.99,000 x 11 = Rs.10,89,000/-
B	Loss of spousal and parental consortium (@Rs.48,000 x 4
C	Loss of estate
D	Funeral expenses
E	Transportation cost Rs.5,000/-
	Total (A+B+C+D+E)

[12] Now, the next question is upon whom the liability of payment should be fastened. It is seen from the record that the OP No.1 has adduced his evidence as OPW -1 and proved the insurance policy certificate (Ext.C) in respect of the offending motor cycle No. TR-01-AB-5500, its registration certificate (Ext. A), pollution under control certificate (Ext. D) and driving licence of the rider (Ext. B). All those documents are admitted in evidence without any protest. The Ext. C insurance policy certificate tells that the insurance was in respect of the offending motor cycle No. TR-01AB5500 covering the period from 31.01.2018 to 30.01.2019. There is no evidence of any breach of the policy conditions by the insurer also. Thus, Insurance Company being the insurer of the OP No. 1 owner is liable to pay the compensation to the claimant-appellants.

[13] In view of overall analysis made by the learned Court 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 Court below needs to be interfered with and consequently, the compensation as awarded by the learned Court below i.e. Rs. 7,23,050/- is increased to Rs.13,22,000/-. It is pertinent to be mentioned herein that only the monthly income of the deceased was increased other heads are computed as per the award passed by the learned Court below. It is further made clear that the learned Court below has assessed the interest @9% per annum from the date of presentation of the claim petition, but this Court in all matters is fixing 7.5% interest and to maintain uniformity while comparing the bank rate of interest which is also much less. Thus, the claimant-appellants would be entitled compensation as indicated above along with 7.5% interest per annum instead of 9% interest 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 two months, if not already paid from the date of receipt of the copy of this order and on such deposit; the appellants are at liberty to withdraw the same unconditionally.

[14] In view of above discussion and observation, the present appeal stands allowed. As a sequel, miscellaneous applications pending, if any, shall stand closed. Send down the LCRs forthwith.

T. AMARNATH GOUD, J

A.Ghosh

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