

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.19 of 2025

1. The Branch Manager, New India Assurance Company Ltd.

..... Appellant

-V E R S U S-

1. Smti. Nilima Mukherjee and Others.

..... Respondents.

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

For Appellant(s)	:	Mr. A. Das, Advocate.
For Respondent(s)	:	None.
Whether fit for reporting	:	NO

Judgment and order dated 3rd April, 2025

JUDGMENT & ORDER [ORAL]

Heard Mr. A. Das, learned counsel appearing for the appellant.
None appears for the respondents.

[2] This is an appeal filed under Section-173 of the Motor Vehicles Act, 1988 against the judgment and award dated 30.11.2024 passed by the learned Member, Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in connection with case No.T.S. (MAC) 132 of 2016.

[3] The appellant has prayed for the following reliefs:

“(i) Admit this memo of appeal;

(ii) Issue notice upon the respondents;

(iii) Call for the case records vide case no. T.S. (MAC) 132/2016 from the court of Ld. Member, Motor Accident Claims Tribunal, Sri D. Das, Court no.4 West Tripura, Agartala

(iv) To stay the operation of the judgment and award dated 30/11/2024 passed by the Learned Member, Motor Accident Claims Tribunal, Sri D. Das Court no.4, West Tripura, Agartala in connection with case no. T.S. (MAC) 132/2016 till disposal of the present appeal;

(v) After hearing the parties, Your Lordship would be kind enough to set aside/quashed the impugned judgment and award dated 30/11/2024 passed by the Learned Member, Motor Accident Claims Tribunal, Sri D. Das

Court no.4, West Tripura, Agartala in connection with case No. T.S.(MAC) 132 of 2016.”

[4] As per the impugned judgment, the brief fact of the case is that on 17.06.2015 at about 03.30 p.m. the injured person was returning home from Malaynagar by his motor cycle bearing registration No. TR-01-T-5519 through Khayepur-Amtali road and when he reached near Netaji Colony under Srinagar P.S., the offending vehicle bearing registration No. TR-02-M-1551 in rash and negligent manner dashed his motor bike and this resulted in grievous injuries to him. Just after the accident Gouranga Mukherjee was taken to AGMC & GBP Hospital, Agartala and on 28.06.2015 he was referred to ILS hospital, Agartala where he was treated upto 17.07.2015 and even after discharge from hospital, his treatment has been continuing. After filing the claim petition, notices were issued against the owner and insurer i.e. present appellant as opposite parties.

[5] After receiving the notice from the learned tribunal, the present appellant appeared before the learned tribunal and filed written statement taking statutory defence and on the basis of plaint and documents the learned tribunal framed the issues. The victim Gouranga Mkuharjee was not examined and also did not appear before the learned Court below, though he is alive and his disability was only 77% percent, but his name was not inserted in the claim petition. After hearing both the parties, the learned Court below delivered the judgment on 30.11.2024 with an award of Rs.37,37,000/-(Rupees Thirty Seven Lakh Thirty Seven thousand) only with 8% simple interest

[6] Hence, the present appeal has been preferred by the appellant before this Court for redress.

[7] The learned Tribunal after hearing the parties and on perusal of the material evidence on record has observed as under:

“20. In the result, the application under section 166 of the M.V. Act, 1988 filed on behalf of the injured Gouranga Mukherjee is allowed on contest with an award of Rs. 37,37,000/- (Rupees Thirty- Seven Lakh Thrity-Seven Thousand) only with 8% simple interest from the date of filing of the claim petition i.e., from 01.07.2016, except for the period from 30.06.2018 to 04.07.2019 when the case remained dismissed for default.

21. The OP Insurance company shall pay the compensation amount as determined herein above. Payment shall be made within a period of 30

(thirty) days from the date of this award in terms of Section 168(3) of the Act.

22. To ensure protection of the compensation the following direction is made for disbursement of the compensation:

a) An amount of Rs. 10,000,00/- (Rupees Ten Lakh) only shall be directly paid to the injured by transfer to his individual bank account directly and the rest amount shall be invested in his name in fixed deposit for a period of 5 years in any nationalized bank, preferably the UCO Bank, District Court Branch, Agartala with auto renewal facility.

b) No loan or advance or pre-mature withdrawal shall be allowed from said Fixed Deposit without prior sanction of this Tribunal. The interest accrued on the fixed deposit shall be directly transferred to the savings bank account of the injured Sri Gouranga Mukherjee by the concerned bank.

23. The O.P. insurance company shall give notice of the deposit of the compensation amount to the claimant and shall also file a compliance report with this Tribunal within 15 days of the deposit.

24. Supply copy of the judgment to the claimant and the O.P. No.2 free of cost.”

[8] Being aggrieved by and dissatisfied with the judgment and award dated 30.11.2024 passed by the learned Member, Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in T.S.(MAC)132 of 2016, the present appeal has been preferred by the appellant.

[9] Learned counsel appearing for the appellant has denied its liability denying and disputing the claim and averments of the claimant, the respondents herein and put her to strict proof thereof. It also contended that the accident was result of rash and negligent riding of the motor cycle by the victim and the truck was not at fault. It has been further contended that the liability is subject to proof of valid insurance policy of the offending truck and fulfillment of policy conditions. It has been further contended by the learned counsel appearing for the appellant that the victim only suffered 70% mental illness but the learned Court below assessed the compensation 100%.

[10] This Court having gone through the material evidence on record and the observation made by the learned Court below on this point has revealed that medical opinion clearly shows that with 70% mental

disability, the injured cannot do any work to earn his livelihood. Evidence of the claimant that the injured was a rubber taper is not disputed. With 70% mental disability, it is sure that, the injured would not get any work of rubber taping. Hence, keeping in mind the nature of job the injured was engaged in, this Court may reasonably foresee that the functional disability of the injured is 100%.

[11] 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 is just and proper and needs no interference thus, the findings as arrived at by the learned Court below stands affirmed. Consequently, the present appeal stands dismissed.

[12] As a sequel, miscellaneous applications pending, if any, shall stand closed. Registry is directed to do the needful as per procedure and thereafter, send down the LCRs forthwith.

T. AMARNATH GOUD, J

A.Ghosh

ANJAN GHOSH Digitally signed by ANJAN GHOSH
Date: 2025.04.08 14:44:45 +05'30'

