

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.31 of 2024

1. National Insurance Company Ltd.

..... *Appellant*

-V E R S U S-

1. Md. Abu Taher and Others.

.....*Respondents.*

B_E_F_O_R_E
HON'BLE JUSTICE DR. T. AMARNATH GOUD

For Appellant(s)	:	Mr. S. Lodh, Advocate. Mr. S. Majumder, Advocate.
For Respondent(s)	:	Mr. K. De, Advocate. Mr. A. Das, Advocate.
Whether fit for reporting	:	NO

Judgment and order dated 22nd August, 2025

JUDGMENT & ORDER [ORAL]

Heard.

[2] This is an appeal filed under Section-173 of the Motor Vehicles Act, 1988 against the impugned judgment and award dated 09.10.2023 passed by the learned Member, Motor Accident Claims Tribunal, North Tripura, Dharmanagar, in connection with T.S. (MAC) 45 of 2019.

[3] The facts in brief are that for the injuries sustained by Md. Abu Taher, he filed a claim petition under Section-166 of the M.V. Act, 1988, before the learned Member, Motor Accident Claims Tribunal, North Tripura, Dharmanagar, and the same was registered and marked as T.S. (MAC) 45 of 2019. After hearing the parties, vide impugned Judgment and Order dated 09.10.2023, learned Tribunal below allowed the claim petition granting compensation amounting to Rs.30,98,950/- alongwith interest @6% per annum from the date of filing of the claim petition i.e. from 13.11.2019 till the date of actual payment. It was further ordered that 50% of the awarded money alongwith interest shall be paid by the appellant and rest 50% alongwith interest shall be paid by respondent no. 4.

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

“20. In the result, the petition filed under section 166 of the Motor Vehicles Act filed by the claimant-petitioner is hereby allowed. It is ordered that the claimant petitioner is entitled to get an award amounting to Rs.30,98,950/- (Rupees thirty lakh ninety eight thousand nine hundred fifty) only as compensation and the OP No.3, he Shriram General Insurance Company Ltd. and OP No.5, the National Insurance Company Ltd. being the insurers of the said vehicles are jointly liable to pay the award to the claimant-petitioner as police submitted charge sheet against both the drivers of the vehicles.

21. The Opposite Party No.3, the Branch Manager, The Shriram General Insurance Company Ltd., Near Tripura Gramin Bank, Bardowali, PO & PS.- A.D. Nagar, Agartala, West Tripura being the insurer of vehicle bearing registration No. AS-01DD-1546 (Truck) and the Opposite Party No.5, the Branch Manager, The National Insurance Company Ltd. Thana Road, Babur Bazar, PS- Dharmanagar, DistrictNorth Tripura being the insurer of vehicle bearing registration No. TR02-9809 (Star City) are directed to make payment of the award of the compensation 50% each to the claimant-petitioner within 30 days from this day of award along with interest @ 6 % per annum from the date of presentation of the claim petition before this tribunal i.e. 13-11-2019 till the date of actual payment.

22. The award together with interest shall be released in favour of the claimant-petitioner by transmitting it directly to the account of the claimant-petitioner.

23. Supply a copy of the Judgment to the claimant-petitioner for his ready reference. A copy of the Judgment shall also be communicated to the Opposite Party No.3, the Branch Manager, The Shriram General Insurance Company Ltd., Near Tripura Gramin Bank, Bardowali, PO & PS.- A.D. Nagar, Agartala, West Tripura and the Opposite Party No.5, the Branch Manager, The National Insurance Company Ltd. Thana Road, Babur Bazar, PS- Dharmanagar, District- North Tripura to facilitate the payment of the awarded compensation in time.”

[5] Being aggrieved and dissatisfied with the same, the present appeal has been preferred by the appellant insurance company before this Court for redress.

[6] Mr. S. Lodh, learned counsel appearing for the appellant has submitted that the learned Court below committed serious error in assessing the compensation under the head of loss of future income of the respondent No. 1. The respondent No. 1 did not prove that due to the accident he became permanently disabled and due to the accident he lost his earning capacity. The

respondent No. 1 failed to produce any evidence in this regard, but the learned Tribunal without considering the same assessed the compensation as injured died in a motor accident and he lost his 100% working capacity. By this wrong assessment of future income, the learned Court below awarded Rs.27,21,600/- in favour of respondent No. 1 on the head of loss of future income and the same is not sustainable under law and hence, the same is liable to be interfered with.

[7] The learned Court below committed serious error in awarding Rs.50,000/- in favour of respondent No. 1 under the head of pain and suffering. Learned Tribunal below without considering the evidence record, awarded Rs.50,000/- under the head of pain and suffering.

[8] The learned Court below committed serious error in holding that due to fault of both the drivers, the accident took place and accordingly owners of both the vehicles are liable to pay the compensation and the appellant being the insurer of the motor cycle bearing registration no. TR-02-9809, the learned Court below directed the appellant to indemnify the liability of the owner of motor cycle, and to pay 50% of the awarded money to the respondent No. 1. The respondent No. 1 as claimed appeared before the learned Court below and contended that due to rash and negligent driving of the truck bearing registration No. AS-01-DD-1546 the accident took place and no contrary evidence was produced by any of the parties. Police also filed charge sheet under Sections-279,338,427 of the IPC and under Sections-184 and 187 of the MV Act against the driver of the truck bearing registration No. AS-01-DD-1546.

[9] It has been further contended that the learned Court below committed serious error in directing the appellant to pay 50% of the awarded money to the respondent No. 1. As per the findings of the learned Court below, the respondent No. 1 is also liable for the accident and as the accident took place for the fault of respondent No. 1, he cannot be the recipient of any compensation. Thus, the findings of the learned Court below directing the appellant to pay 50% of the awarded money to the respondent No. 1 is not sustainable in law.

[10] In view of above and having gone through the material evidence on record [Exbt.4(i) to 4(ix)] as well as the observations made

by the learned Court below it reveals that during investigation from the statement of witnesses as well as injured person it came up that on 29.06.2016 at about 1140 hrs the nephew of the complainant Md. Abu Taher was proceeding towards Dharmangaar riding the motor cycle and when reached at Laxmancherra rubber began at that time one truck which was coming from opposite direction dashed the nephew of the complainant.

[11] Resultantly, suffered bleeding injuries on his person and the bike was badly damaged in front side. Subsequently, the local people managed to shift the injured to the PTL PHC and after that referred to KLS RGM Hospital and thereafter taken treatment Silchar South City Hospital for better treatment. The accident took place due to rash and negligent driving of the truck driver bearing registration No. AS-01-DD-1546 and at that point of time the offending vehicle was insured by the Shri Ram General Insurance Company Ltd. As such, the liability must be fastened upon the respondent No.4 herein, i.e. Shri Ram General Insurance Company Ltd.

[12] Accordingly, the appeal stands allowed exonerating the appellant insurance company i.e. the National Insurance Company Ltd. from the joint liability to pay the awarded compensation as awarded by the learned Court below. Consequently, the liability is fasten on the respondent No.4 i.e. Shri Ram General Insurance Company Ltd. who is the insurer of the offending truck vehicle. However, the statutory amount, if any, deposited by the appellant-insurance company, be returned back, as per procedure.

[13] Accordingly, the respondent No.4 to pay the compensation to the claimants. The amount to be deposited within a period of one month from today, if not already deposited and on such deposit, the claimants are entitled to withdraw the same as per procedure.

[14] Accordingly, the appeal stands allowed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

DR.T. AMARNATH GOUD, J

A.Ghash

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