

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.52 of 2025

Md. Sadek Miah @ Chhaddek Miah
son of late Abdul Majid,
Resident of Aralia, P.S. Sonamura,
District- Sepahijala,
(Owner of the vehicle No. TR-01-C-4392, Max)

.....Appellant

Versus

1. Smt. Ruma Saha
wife of Sri Samir Saha, C/O Sri Paritosh Chowdhury
resident of A.D. Nagar, Road No.2, P.S. A.D. Nagar,
District- West Tripura
.....Respondent- Claimant- petitioner
2. The Divisional Manager
The New India Assurance Company Ltd.
4 Mantribari Road, Agartala
P.O. Agartala, P.S. West Agartala,
District- West Tripura.
(Insurer of vehicle bearing registration no. TR-01-C-4392, Max)

.....Respondent

For the Appellant(s)	: Mr. Anjan Kanti Pal, Advocate
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For the Respondent(s)	: Mr. Asim Kumar Deb, Advocate
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**BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
ORDER**

15.09.2025

[1] Heard Mr. A.K. Pal, learned counsel appearing on behalf of the appellant. Also heard Mr. A.K. Deb, learned counsel appearing on behalf of the respondent- insurance company.

[2] The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 06/12/2023 passed by the learned Member, Motor Accident Claims Tribunal, Court

no.2, Agartala, West Tripura in connection with T.S(MAC) 225 of 2019 for setting aside/quashed/cancel the judgment and award dated 06/12/2023 and shifting the liability upon the respondent no. 2 i.e. insurer of the vehicle of the appellant as award was "Pay & Recovery" measure.

[3] The brief facts of the case as mentioned in the instant appeal are that on 16/04/2017 at about 3.30 p.m. the claimant-petitioner, respondent herein was proceeding from Melaghar towards Bishalgarh by boarding vehicle registration no. TR-01-C-4392, Max and while she reached at Bishramganj, the said vehicle capsized and fell down into a deep ditch due to rash and negligent driving of the driver of the said vehicle, as a result the claimant-petitioner-respondent sustained injury. Immediately after the accident claimant-petitioner-respondent was shifted to Bishramganj Hospital from where she was brought to AGMC & GBP hospital, Agartala and was discharged on 18/04/2017 and again on 20/04/2017 she was admitted in AGMC & GBP hospital, Agartala and was discharged on 11/05/2017 for the purpose of her treatment. It is contended by the appellant that the claimant petitioner-respondent used to earn Rs.6,000/- per month as a Tailor. The appellant appeared before the learned Tribunal and filed written statements denied the accident and allegation stated in the claim petition. The vehicle was insured with the respondent no.2 and valid from 08/03/2017 to 07/03/2018 and that liability is shifted upon the insurer i.e. respondent no.2.

[4] Thereafter, the learned Tribunal considered the evidence and documents of both the parties delivered the judgment and award on 06/12/2023 with an awarded amount of Rs.44,000/- along with 7.5% interest per annum from the date of filing of the claim petition i.e. from 13/11/2019 to till the date of payment and the said awarded amount have been made liability upon the Insurance Company i.e. upon the respondent no.2 and accordingly the respondent no.2 paid the said awarded amount to the claimant petitioner. But subsequently the

respondent no.2 filed a Civil Misc case bearing No. Civil Misc 43/2024 in T.S. (MAC) 225/2019 against the appellant owner of vehicle for recovery the said awarded amount. Hence the appellant filed appeal before the Hon'ble High Court for setting aside/quashed the judgment & award and according to the appellant, the liability may fix upon the insurance company.

[5] By filing the instant appeal, following reliefs have sought for:

“(a) Admit this appeal;

(b) Issue notice upon the respondents;

(c) Call for the case records from the court of Learned Member, Motor Accident Claims Tribunal, Court no.2, Agartala, West Tripura in connection with T.S(MAC) 225 of 2019;

(d) Stay the operation of the judgment and award dated 06/12/2023 passed by the Learned Member, Motor Accident Claims Tribunal, Court no.2, Agartala, West Tripura in connection with T.S (MAC) 225 of 2019 till completion of the memo of appeal

AND

(e) After hearing the both the parties Your Lordship would be kind enough to set aside/quashed/cancelled the impugned judgment and award and kindly shift the liability upon the respondent no.2 and Your Lordship would be kind enough to direct the respondent ni.2. i.e. Insurance Company not to recover the said awarded amount of Rs.44,000/- + interest from the appellant owner of the vehicle for fair ends of justice.....”

[6] It is seen from record that an IA being IA No. 03 of 2025 in MAC Appeal 52 of 2025 has been preferred by the appellant in support of his claim seeking acceptance of the additional evidence like documents of route permit for the vehicle bearing registration no. TR-01-C-4392 issued by the Transport Department with effect from 09.10.2013 to 09.10.2018 since the appellant is the owner of the vehicle and ‘Pay and Recovery’ measure has been ordered against him by the Court below. It is submitted on behalf of the appellant that the documents were also available and filed before the Court below but the

same were not considered and marked as exhibits for the reason best known. However, without going into the issues, considering the documents placed before this Court, an opportunity is given to the appellant. Accordingly, the matter is remanded back to the concerned Court below for fresh adjudication considering documents of route permit for the vehicle bearing registration no. TR-01-C-4392 issued by the Transport Department with effect from 09.10.2013 to 09.10.2018 as stated by the appellant herein.

[7] With the above observation and directions, the present matter is remanded back to the concerned Court below for fresh adjudication and accordingly, the present appeal stands disposed of.

[8] As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE

Sabyasachi G.

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