

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.61 OF 2025**

National Insurance Co. Ltd.

.....Appellant(s)

Versus

Sri Sribash Chandra Debnath & Ors.

.....Respondent(s)

For the Appellant (s) : Mr. Sankar Lodh, Advocate.

For the Respondent(s) : None.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

07.07.2025

Heard Mr. Sankar Lodh, learned counsel appearing for the appellant- Insurance Company.

[2] The brief fact of the case is that on 10.05.2023 at about 0840 hours the claimant petitioner (respondent herein) coming towards Udaipur from Amarpur by riding his Motor bike bearing registration No.TR-03-B-6201 along with pillion rider in normal speed with his left side of the road and when he reached at Bandower near Miah Para at that time one vehicle bearing registration No. TR03-1391 (Bus) came in excessive speed from Amarpur side and hit the bike of the claimant petitioner (respondent herein). As a result the claimant petitioner (respondent herein) and the pillion rider sustained injuries on their person. It is pleaded that at the time of accident he was 50 years old and by profession he is a businessman (Owner of Bidi factory) and used to earn Rs. 35,000/- per month.

[3] On perusal of the record and after hearing the learned counsel appearing for both the parties, the learned Court below passed the award in the following manner:-

"O R D E R

22. *It is ordered that, a total amount of Rs. 6,72,988/-(Rupees Six lakh seventy two thousand nine hundred eighty eight) is awarded in favour of the petitioner as compensation. The OP No.3, The National Insurance Company Limited, the insurer of the offending vehicle bearing Registration No. TR031391 (Bus) is hereby directed to pay the compensation as awarded. The OP No.3 is also directed to pay the interest @ 8% per annum on total awarded sum from the date of filing of this petition i.e. on 16.10.2023 till the date of realization.*

23. *Thus, the claim petition is allowed on contest.*

24. *Let a copy of this award be supplied to the parties concerned on free of cost.*

25. *The case is, thus, disposed of on contest.*

26. *Make necessary entry in the CIS."*

[4] Being aggrieved and dissatisfied with the award dated 28.03.2025 passed in T.S (MAC) 25 of 2023 by the learned Motor Accident Claims Tribunal Sepahijala District the appellant-insurance company approached this Court seeking the following reliefs:-

"Under the circumstances stated above it is most humbly prayed that Your Lordships would be kind enough to admit the appeal, call for the records, and after hearing the parties set aside the impugned Judgment & Award dated 28.03.2025 passed by the learned Member, Motor Accident Claims Tribunal, Sepahijala Judicial District, Sonamura, in T.S.(MAC) 25 of 2023, and pass any other Order(s) as may be deemed fit and proper for fair ends of justice. And for this act of kindness the Appellant shall ever pray."

[5] Mr. Sankar Lodh, learned counsel appearing for the appellant submits before this Court that the tribunal below committed serious error in determining the income of the injured claimant (respondent herein). Learned tribunal below without any cogent evidence came to a conclusion that monthly income of the injured is Rs.35,000/- and also granted sum under some other heads. Hence, the impugned judgment and award is liable to be interfered with.

[6] It is seen from the record that the only case of the appellant-insurance company is that the court below has not appreciated the case in the absence of the proof of income and other benefits which were extended to the claimant (respondent herein) and accordingly, the same is under challenge.

[7] It is also seen from the record that to deny the case of claimant (respondent herein) the insurance company has not taken any steps to lead their evidence and to demolish the claimants case. It is not open for the insurance company to improve their case in appeal when there was no witness on behalf of the insurance company. It is also not open for insurance company to prefer an appeal when they have not taken their defense and to prove their case for dismissing the claim before the tribunal.

[8] In view of the overall analysis made by the learned tribunal 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 tribunal below is just and proper and needs no interference thus, the findings as arrived by the learned tribunal below stands affirmed. Consequently, the present appeal stands dismissed. As a sequel, miscellaneous application(s) pending if any, shall stand closed.

JUDGE



Paritosh

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ACHI
GHOSH

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