

HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.57 OF 2025

National Insurance Company Ltd.

.....Appellant(s)
Versus
Sri Jalak Das & Ors. Respondent(s)

For the Appellant(s)	:	Mr. S. Lodh, Advocate. Mr. K. Roy, Advocate. Mr. S. Majumder, Advocate.
For the Respondent(s)	:	Mr. S. Datta, Advocate.

HON’BLE JUSTICE DR. T. AMARNATH GOUD
ORDER

21.08.2025

[1] Heard Mr. S. Lodh, learned counsel appearing for the appellant-Insurance Company.

[2] This present appeal has been filed under Section 173 of the M.V. Act 1988, against the judgment and award dated 04.12.2024 passed by the Learned Member Motor Accident Claims Tribunal in T.S.(MAC) 22 of 2021, North Tripura, Dharmanagar.

[3] The appellant has prayed for 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 04.12.2024 passed by the learned Member, Motor Accident Claims Tribunal, North Tripura, Dharmanagar, in T.S.(MAC) 22 of 2021, 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.”

[4] The fact of the case, is that, on 14.11.2018 the claimant was sitting on the back side of one Scooty bearing No. TR-05A-7659 riding by the respondent No.2 herein, proceeding towards Sanicherra from Bagbassa side. When they reached in front of Bagbassa Petrol Pump, due to the rash & negligent driving of the respondent No.2 herein, an accident

occurred & the victim/claimant received bleeding injuries on his person and his bone of right leg critically broken down. Just after the accident the injured was taken to Bagbassa PHC with the help of Bagbassa police Out Post from where he was shifted to Dharmanagar District Hospital by the help of Fire Brigade and seeing the precarious condition of the claimant the attending doctor referred him to higher center for better treatment & on that night at about 2.00/2.30 a.m. the claimant/victim was taken to Silchar Medical College Hospital for better treatment, wherein he was treated as indoor patient for the period w.e.f. 15.11.2018 to 17.12.2018. One operation was done on his right leg & one steel rod was inserted. On 17.12.2018 the claimant/victim was temporarily released from the said hospital, but suddenly his physical condition became critical and he was again admitted on 22.12.2018 to Silchar Medical College Hospital wherein he was treated continuously till 01.01.2019 and thereafter he was discharged from said Medical College Hospital. Till the date, he is undergoing treatment and due to fracture on right leg the claimant-victim can't walk or move even he can't able to sit in the toilet. The said accident occurred due to rash & negligent driving of the driver of the scooty. Due to accident, his right leg was broken and he is still under treatment. The victim was a student of D.N.Vidyamandir, Dharmanagar studying in Class- XII. For the accident he could not continue his study properly and could not sit for the Test Examination & final examination of Class-XII and after being recovered from his physical condition to some extent he appeared in his Test & Final Examination with his physical inabilities & ultimately succeeded in the final examination of Class-XII and at present he is studying in First Semester (Arts) in Dharmanagar Govt. Degree College. The claimant/victim is a very meritorious student & due to said accident he has lost two years of his academic life and for which his future life has been ruined. The father of the claimant-victim died long years back & his mother has been bearing the expenses of his study & treatment

by working as maid servant in different households of that locality. The claimant used to do private tuition for maintaining his family. His monthly income was about Rs. 10,000/- to Rs. 11,000/-. It is submitted that, his right leg has been broken & numbers of rod have been inserted. It is also stated that more X-ray sheets are lying with the claimant and nos. of cash memo through which medicine was purchased at the last time of treatment could not be collected and preserved as because at that time condition of patient was serious. It is further stated that the claimant incurred other expenses i.e. traveling from Dharmanagar to Silchar and Silchar to Dharmanagar and the expenses of hotels and other expenses during stay of the person who accompanied the victim at Silchar. But the claimant could not procure all such receipts regarding that matter.

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

“O=R=D=E=R

12. In view of the aforesaid discussion and findings, the claim application filed by the claimant-petitioner under Section 166 of the Motor Vehicles Act, 1988 is hereby allowed.

The Opposite Party No. 3, The Manager, National Insurance Co. Ltd. Dharmanagar Branch, Dharmanagar, North Tripura being the insurer of vehicle bearing registration No. TR-05A-7659 is directed to pay the compensation of Rs.4,06,000/-(Rupees four lakh six thousand) only to the claimant-petitioner within one month from today. The claimant-petitioner is also entitled to get interest on the awarded compensation amount @ 6% per annum from the date of filing of the claim application before this Tribunal i.e. on 12-07-2021 till the date of realization.

The awarded compensation amount together with accrued interest shall be released in favour of the claimant-petitioner by transmitting it directly to the savings bank account of the claimant-petitioner.

Furnish a copy of this judgment to the Ld. Counsel of the claimant-petitioner as well as to the Opposite Parties free of cost at once for compliance.

Thus, this case is disposed of on contest.

Make necessary entries in the TR and CIS.”

[6] Being aggrieved and dissatisfied with the judgment and award dated 04.12.2024 passed by the Ld. Motor Accident Claims Tribunal, North Tripura, Dharmanagar, in T.S (MAC) No.22of 2021, the present appeal has been preferred by the appellant.

[7] The main grounds which are pointed out and at the same time falls for consideration is that claimant/injured person is a student and has no proof of income. In view of the same, the Court below has considered

Rs. 9000/- per month as monthly income. The other point which is argued by the counsel of the appellant as against the medical expenses bills is that the injured incurred Rs. 82,865/- as cost of treatment and rounding figure of Rs.1,00,000/- has been awarded by the tribunal and finally for future medical expenses, the Court below awarded Rs. 1,00,000/-.

[8] Admittedly, it is a case of accident and since, it is a beneficial legislation a notional income is fixed by the Court. Even though, the claimant is a student does not mean that he has no direct income. Similarly, if an un- employed house wife is injured, it cannot be said that she is not having a direct income. It has to be reasonably construed that either a student or a house wife, they render services to the family and though directly income cannot be assessed but indirectly their services means a lot to the family. If a person is employed to render the assistances in place of his son for providing house hold assistance to his parents and other family members, obviously the said person would be paid the wages or salary. Therefore, this Court is not inclined to interfere with the notional income i.e, assessed by the Court below at Rs. 9000/- per month, accordingly the said notional income stands confirmed.

[9] Insofar as, the medical expenses incurred at Rs. 82,865/- to which the Court below has fixed a sum of Rs. 1,00,000/- by rounding of the same is concerned, it is a reasonable apprehension that in the process of treatment some medicines or any other related items might not cover the bills. And thus, awarding of Rs.1,00,000/- is just and proper as reasoned by the tribunal.

[10] Finally, a sum of Rs. 1,00,000/- which was awarded for future medical treatment is concerned, it has to be seen that the claimant is injured with grievous multiple fracture on his right leg and a steel rod has been implanted. It is a known fact that any foreign object which is

implanted is only for a specific period and thereafter, it needs to be removed once those retains original strength and fractures get cured.

[11] Since, the claimant is a young boy in his future life time he has to get the implanted steel rod to be removed from his body. Even for removing the implanted steel rod, the procedure involved is by way of surgery which is equally expensive and the same procedure has to be adopted while implanting the rod and also to remove the rod except the cost of steel rod which is implanted is not included in the surgery bill, when the said rod is removed the rest is the same. Even for the said removal surgery, the claimant has to undergo treatment as an indoor patient and after discharge, he needs to take certain medical care and rich diet. In view of the same, the Court below awarded Rs.100,000/- for future treatment is just and proper and needs no interference.

[12] For the reason stated above, the argument advanced by the learned counsel for the appellant has been examined and the same is rejected. Consequently, the appeal filed by the insurance company stands dismissed and accordingly, the order passed by the learned tribunal stands affirmed. As a sequel, miscellaneous application(s) pending if any, shall stand closed. Send down the LCRs.

DR. T. AMARNATH GOUD, J

Paritosh

SABYASA
CHI
GHOSH

Digitally signed
by SABYASACHI
GHOSH
Date: 2025.08.27
17:50:20 +05'30'