

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.63 of 2025

National Insurance Company Ltd.

represented by its Administrative Officer,
Agartala Division, 42- Akhaura Road,
P.O.: H.P.O. Agartala, P.S.: West Agartala,
Dist.: West Tripura, PIN: 799001.
(Insurer of the vehicle No. TR-01-AW-0630)

.....Appellant.

Versus

- 1. Smt. Dhankanya Debbarma,**
W/O: late Chandra Mani Debbarma.
- 2. Smt. Rima Debbarma,**
D/O: late Chandra Mani Debbarma.
- 3. Shri Binod Debbarma,**
S/O: late Chandra Mani Debbarma,
All are residents of Vill: Joy Ram Para,
(Mangal Sardar Para), P.O.: Champaknagar,
P.S.: Jirania, Dist.: West Tripura,
PIN: 799045

.....Claimants/Respondents

- 4. Shri Carey Marak, IPS,**
Asst. Inspector General of Police
(Police Housing & Construction)
Police Hospital Road, Milan Chakra,
Arundhuti Nagar, Agartala, West Tripura,
PIN: 799003.

..... (Owner of vehicle No. TR-01-AW-0630
(Hyundai Creta))

For Appellant (s) : Mr. Samrat Kar Bhowmik, Sr. Advocate
Mr. Sreekanta Bal, Advocate
Mr. E.L. Darlong, Advocate
Mr. Jyotishmay Das, Advocate
Ms. Riya Roy Chowdhury, Advocate
Ms. Nirjati Debnath, Advocate

For Respondent(s) : Mr. Pradip Rathor, Advocate
Ms. Babita Debbarma, Advocate
Mr. Sukhendu Debbarma, Advocate

Date of hearing and delivery
of judgment and order : 21.08.2025

Whether fit of reporting : Yes.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

[1] Heard Mr. E.L. Darlong, learned counsel appearing for the appellant –insurance company. Also heard Mr. P. Rathor, learned counsel and Mr. Sukhendu Debbarma, learned counsel appearing for the claimant-respondents No.1 to 3.

[2] The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 as amended till date, against the award dated; 14.08.2024 passed by the learned Member, Motor Accident Claim Tribunal No.1. West

Tripura, Agartala, in Case No. T.S. (MAC) 82 of 2021 whereby the appellant National Insurance Company Ltd. has been directed to pay amount of Rs. 45,55,300/- (Rupees forty five lakhs fifty five thousand and three hundred only) along with 9% simple interest per annum from the date of registration of claim i.e., w.e.f. 23.06.2021 till the date of actual payment.

[3] The brief facts of the case of the claimants as enumerated before the learned tribunal is that on 09.03.2021, victim Chandra Mani Debbarma was going towards his school for attending duty by riding his motorcycle bearing registration No.TR-01-P-6866 through NH-08 and on the way at about 0825 hours, when he reached at Chandra Sadhu Para near TLS Girls Hostel under Jirania Police Station, vehicle bearing registration No.TR-01-AW-0630 (Hyundai Creta) which was moving with high speed being driven rashly and negligently, suddenly dashed the motorcycle of the victim from its back side. As a result, Chandra Mani Debbarma fell down on the road and sustained grievous injury on his head, chest and other parts of his body. The local people immediately informed the fire service and thereafter, the injured was shifted to Jirania Hospital by Fire Service vehicle but, the attending doctor after examining Chandra Mani Debbarma declared him dead.

[4] Initially, one written Ejahar was lodged by Sri Sambhunath Debbarma, Son of Debcharan Debbarma of Joy Ram Para, Jirania with the O/C, Jirania Police Station which was accordingly received by the Officer-in-

Charge of Jirania PS. Subsequently, another written complaint was lodged by one ASI Sambhu Charan Debbarma of Champaknagar Out Post wherein it is stated that Chandra Mani Debbarma (hereinafter called as 'deceased') while proceeding towards Teliamura from Agartala by riding his motorcycle in front of the vehicle of O.P No.1 i.e. the owner of the vehicle (respondent No.4 herein), suddenly took sharp right turn without giving any signal by indicator or by hand for which the vehicle of O.P No.1 went to close contact of the motorcycle and dashed the motorcycle of the deceased. As a result, the alleged accident occurred and the deceased sustained grievous injury on his person. It is stated that the persons boarded in the vehicle of O.P No.1 also sustained injuries on their persons. On the other hand, the claimants in their claim petition have stated that actually the accident had occurred due to rash and negligent driving of the vehicle No.TR-01-AW-0630 by its driver. It is also stated that deceased Chandra Mani Debbarma was as a Kokborok Teacher (KBT) and serving in the Education Department under TTAADC. At the time of death, deceased was aged about 56 years and used to draw salary of Rs.53,050/-, per month. It is further stated that deceased was the sole earning member of his family consisting of 4 members and the claimants were fully dependent upon the income of the deceased. As Chandra Mani Debbarma died in a road traffic accident, the claimants being petitioners filed the claim petition before the Court below claiming compensation to the tune

of Rs.47,95,200/- only under different heads along with interest at compound rate in vogue from the date of filing of the application.

[5] The owner of the offending vehicle and the insurer of the offending vehicle (O.P. No.1 & O.P. No.2 in the trial Court respectively) had contested the suit by filing their respective written statements. Thereafter, on the basis of pleadings and documents of the parties, following issues were framed by the learned trial Court:

“(1) Did deceased Chandra Mani Debbarma die in a road traffic accident occurred on 09.03.2021 at about 7.30 am at Chandra Sadhu Para, near TLS Girls Hostel on NH-08, Assam Agartala Road under Jirania PS out of use of vehicles bearing No.TR-01-P-6866 registration (motorbike) and TR-01-AW-0630 (Hyundai Creta), due to rash and negligent driving by the driver of the vehicle bearing registration No.TR-01-AW-0630 (Hyundai Creta)?

(2) Are the petitioners entitled to get compensation, as prayed for and if so, to what amount and who is liable to pay the same?

(3) To what other reliefs the parties are entitled?”

[6] Learned trial Court upon hearing the parties and on perusal of the material evidence on record has passed the impugned order dated 14.08.2024 in T.S. (MAC) 82 of 2021, the relevant contents of the said order is extracted as under:

“.....O=R=D=E=R

It is, therefore, held that the claimant petitioners are entitled to get compensation of Rs.45,55,300/- (Rupees Forty Five Lakhs Fifty Five Thousand Three Hundred) only with interest @ 9% per annum with effect from 23.06.2021 i.e. the date of filing of the claim petition till the date of actual payment. O.P No.2 i.e. the National Insurance Company Ltd shall pay the amount of compensation with interest within 30 days from today in terms of Section 168(3) of M.V. Act, 1988.

Out of the awarded amount of compensation inclusive of interest claimant petitioner no.1 i.e. wife of the deceased will get 50% and claimant petitioner nos.2 and 3 being the daughter and son of the deceased will get 25%

each. Out of the respective share of claimant petitioners nos.1, 2 and 3, 50% each of their share shall be kept under fixed deposit scheme in their respective name with any Nationalized for a period of five years and remaining 50% of their respective share shall be paid to them through their respective bank accounts. However, liberty is given to all the claimant petitioners to withdraw monthly interest from their fixed deposit accounts to meet up their day to day expenses. No loan or withdrawal shall be permitted from/against any of the fixed deposit certificates without prior permission of this Tribunal.....”

[7] By filing the instant appeal, the following reliefs have been sought for by the appellant:

- “a. Admit the Appeal.
- b. Call for the records of Case no: T.S. (MAC) 82 of 2021 from the Court of the Ld. Member, Motor Accident Claim Tribunal No.1, West Tripura, Agartala,*****
- c. Stay the operation of the impugned award dated Award dated 14.08.2024 passed in T.S. (MAC) 82 of 2021.
- d. After hearing the parties be kind enough to set aside/quash the impugned award appealed against.....”

[8] Mr. E.L. Darlong, learned counsel appearing for the appellant insurance company submits that the deceased was a Government employee at the time of accident and the claimants/respondents got various benefits due to untimely demise of the deceased from the Government of Tripura and all those benefits were directly related to the accidental death of the deceased. It is further submitted that claimants are not entitled to get double benefit for accidental death. He, therefore, urges this Court to set aside the impugned award dated 14.08.2024 passed by the learned tribunal below.

[9] On the contrary, Mr. P. Rathor, learned counsel and Mr. S. Debbarma, learned counsel appearing for the respondent-claimants have

opposed the submission made on behalf of the appellant. It is also submitted that the claimants have not received any benefit from the government.

[10] Heard the submissions made at the Bar. Perused the record.

[11] Though, it is represented on behalf of the appellant that the claimants/respondents got various benefits from the Government of Tripura due to untimely demise of the deceased which were directly related to the accidental death of the deceased, no such evidence has been placed on record. Furthermore, the appellant side has failed to show any such provision of law to show that if the legal heirs of a Government employee got some monetary benefits due to his demise, they will not be entitled for compensation under the MV Act.

[12] The Hon'ble Apex Court vide its judgment in ***Helen C. Rebellow (MRS) and others v. Maharashtra State Road Transport Corporation and another*** reported in (1999) 1 SCC 90 in paragraphs No.32, 33, 34, 35, 36 & 37 held as under:

“.....32. So far as the general principle of estimating damages under the common law is concerned, it is settled that the pecuniary loss can be ascertained only by balancing on one hand, the loss to the claimant of the future pecuniary benefits that would have accrued to him but for the death with the “pecuniary advantage” which from whatever source comes to him by reason of the death. In other words, it is the balancing of loss and gain of the claimant occasioned by the death. But this has to change its colour to the extent a statute intends to do. Thus, this has to be interpreted in the light of the provisions of the Motor Vehicles Act, 1939. It is very clear, to which there could be no doubt that this Act delivers compensation to the claimant only on account of accidental injury or death, not on account of any other death. Thus, the pecuniary advantage accruing under this Act has to be deciphered, co-relating with the accidental death. The compensation payable under the Motor Vehicles Act is on account of the pecuniary loss to the claimant by accidental injury or death and not other forms of death. If there is natural death

or death by suicide, serious illness, including even death by accident., through train, air flight not involving motor vehicle. would not be covered under the Motor Vehicles Act. Thus. the application of general principle under the common law of loss and gain for the computation of compensation under this Act must co-relate to this type of injury or deaths, viz, accidental. If the words "pecuniary advantage' from whatever source are to be interpreted to mean any form of death under this Act it would dilute all possible benefits conferred on the claimant and would be contrary of the spirit of the law. If the 'pecuniary advantage' resulting from death means pecuniary advantage coming under all forms of death then it will include all the assets movable, immovable, shares, bank accounts, case and every amount receivable under any contract. In other words, all heritable assets including what is willed by the deceased etc. This would obliterate both, all possible conferment of economic security to the claimant by the deceased and the intentions of the legislature. By such an interpretation the tortfeasor in spite of his wrongful act or negligence, which contributes to the death, would have in many cases no liability or meagre liability. In our considered opinion, the general principle of loss and gain takes colour of this statute, viz., the gain has to be interpreted which is as a result of the accidental death and the loss on account of the accident death. Thus, under the present Act whatever pecuniary advantage is received by the claimant, from whatever source, would only mean which comes to the claimant on account of the accidental death and not other form of death. The constitution of the Motor Accidents Claims Tribunal itself under Section 110 is, as the Section states:

"....for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, ..."

33. Thus, it would not include that which claimant receives on account other form of deaths, which he would have received even apart from accidental death. Thus, such. pecuniary advantage would have no correlation to the accidental death for which compensation is computed. Any amount received or receivable not only on account of the accidental death but that would have come to the claimant even otherwise, could not be construed to be the "pecuniary advantage", liable for deduction. However, where the employer insures his employee, as against injury or death arising out of an accident, any amount received out of such insurance on the happening of such incidence may be an amount liable for deduction. However, our legislature has taken not of such contingency, through the proviso of Section 95. Under it the liability of the insurer is excluded in respect of injury or death, arising out of, in the course of employment of an employee.

34. This is based on the principle that the claimant for the happening of the same incidence may not gain twice from two sources. This, it is excluded thus, either through the wisdom of legislature or through the principle of loss and gain through deduction not to give gain to the claimant twice arising from the same transaction, viz., same accident. It is significant to record here in both the sources, viz., either under the Motor Vehicles Act or from the employer, the compensation receivable by the claimant is either statutory or through the security of the employer securing for his employee but in both cases he receives the amount without his contribution. How thus an amount earned out of one's labour or contribution towards one's wealth, savings, etc. either for himself or for his family, which such person knows, under the law, has to go to his heirs after his death either by succession or under a will could be said to be the 'pecuniary gain' only on account of one's accidental death. This, of course, is pecuniary gain but how this is equitable or could be balanced out of the amount to be received as compensation under the Motor Vehicle Act. There is no co-relation between the

two amounts. Not even remotely. How can an amount of loss and gain of one contract could be made applicable to the loss and gain of another contract. Similarly, how an amount receivable under a statute has any co-relation with an amount earned by an individual. Principle of loss and gain has to be on the same place within the same sphere, of course, subject to the contract to the contrary or any provisions of law.

35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz., accident which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co-relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which insured contributes in the form of premium. It is receivable even by the insured, if he lives till maturity after paying all the premiums, in the case of death insurer indemnifies to pay the sum to the heirs, again in terms of the contracts for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly any case, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on similar and same plane having nexus inter so between them and not to which, there is no semblance of any co-relation. The insured (deceased) contributes his own money for which he receives the amount has no co-relation to the compensation computed as against tortfeasor for his negligence on account of accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury of death without making any contribution towards it then how can fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act, he receives without any contribution. As we have said the compensation payable under the Motor Vehicles Act is statutory while the amount received under the life insurance policy is contractual.

36. As we have observed, the whole scheme of the Act, in relation of the payment of compensation to the claimant, is beneficial legislation, the intention of the legislature is made more clear by the change of language from what was in Fatal Accidents Act, 1855 and what is brought under Section 110-B of 1939 Act. This is also visible through the provision of Section 168(1) under the Motor Vehicles Act, 1988 and Section 92-A of 1939 Act which fixes the liability on the owner of the vehicle even on no fault. It provides where the death or permanent disablement of any person has resulted from an accident spite of no fault of the owner of the vehicle, an amount of compensation fixed therein is payable to claimant by such owner of the vehicle. Section 92-B ensures that the claim for

compensation under Section 92-A is addition to any other right to claim compensation respect whereof under any other provision of this Act or of any other law for the time being in force. This clearly indicates the intention of the legislature which is conferring larger benefit to the claimant. Interpretation of such beneficial legislation is also well settled. Whenever there be two possible interpretations in such statute then the one which subserves the object of legislation, viz., benefit to the subject should be accepted. In the present case, two interpretations have given of this statute, evidenced by two distinct sets of decisions of the various high courts. We have no hesitation to conclude that the set of decisions, which applied the principle of no deduction of the life insurance amount should be accepted and the other set, which interpreted to deduct, is to be rejected. For all these consideration we have no hesitation to hold that such High Courts were wrong in deducting the amount paid or payable under the life insurance by giving restricted meaning to the provisions of the Motor Vehicles Act basing mostly on the language of English statutes and not taking into consideration the changed language and intends of the legislature under various provisions of the Motor Vehicles Act, 1939.

37. Accordingly, we set aside the impugned judgment dated 9th September, 1985 and restore the judgment of the tribunal dated 29 September, 1980 and hold that the amount received by the claimant on the life insurance of the deceased is not deductible from the compensation computed under the Motor Vehicles Act.. The concerned respondent shall make the payment accordingly, if not already paid in terms thereof.....”

[13] In paragraph 21 of the judgment in ***Vimal Kanwar and others v. Kishore Dan and others*** reported in (2013) 7 SCC 476, Hon’ble Apex Court held as under:

“21. "Compassionate appointment" can be one of the conditions of service of an employee, if a scheme to that effect is framed by the employer. In case, the employee dies in harness i.e. while in service leaving behind the dependants, one of the dependants may request for compassionate appointment to maintain the family of the deceased employee who dies in harness. This cannot be stated to be an advantage receivable by the heirs on account of one's death and have no correlation with the amount receivable under a statute occasioned on account of accidental death. Compassionate appointment may have nexus with the death of an employee while in service but it is not necessary that it should have a correlation with the accidental death. An employee dies in harness even in normal course, due to illness and to maintain the family of the deceased one of the dependants may be entitled for compassionate appointment but that cannot be termed as "pecuniary advantage" that comes under the periphery of the Motor Vehicles Act and any amount received on such appointment is not liable for deduction for determination of compensation under the Motor Vehicles Act.”

[14] For the purpose of reference, the relevant contents from the judgment of the Hon'ble Apex Court passed in ***Sebastiani Lakra and others v. National Insurance Company Limited and another*** reported in (2019) 17 SCC 465 are also extracted as under:

“.....12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependants or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependants are entitled to "just compensation" under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependants as a result of some contract or act which the deceased performed in his lifetime cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependants only after his death.

13. As far as any amount paid under any insurance policy is concerned whatever is added to the estate of the deceased or his dependants is not because of the death of the deceased but because of the contract entered into between the deceased and the insurance company from where he took out the policy. The deceased paid premium on such life insurance and this amount would have accrued to the estate of the deceased either on maturity of the policy or on his death, whatever be the manner of his death. These amounts are paid because the deceased has wisely invested his savings. Similar would be the position in case of other investments like bank deposits, share, debentures, etc. The tortfeasor cannot take advantage of the foresight and wise financial investments made by the deceased.

14. As far as the amounts of pension and gratuity are concerned, these are paid on account of the service rendered by the deceased to his employer. It is now an established principle of service jurisprudence that pension and gratuity are the property of the deceased. They are more in the nature of deferred wages. The deceased employee works throughout his life expecting that on his retirement he will get substantial amount as pension and gratuity. These amounts are also payable on death, whatever be the cause of death. Therefore, applying the same principles, the said amount cannot be deducted.

15. As held by the House of Lords in *Parry v. Cleaver*[1970 AC 1] the insurance amount is the fruit of premium paid in the past, pension is the fruit of services already rendered and the wrongdoer should not be given benefit of the same by deducting it from the damages assessed.....”

[15] With the above observations, keeping in view the opinion as enshrined in the judgments of the Hon'ble Apex Court cited *supra*, this Court feels that the insurance company cannot be escaped from the liability of paying the compensation to the legal heirs/dependants of the deceased government employee even though, they get any compensation from the government as a result of such death.

[16] Hence, there is no infirmity in the award passed by the learned tribunal on 14.08.2024 in case No. T.S. (MAC) 82 of 2021 and the same is hereby upheld.

[17] Accordingly, the compensation of Rs.45,55,300/- (Rupees Forty Five Lakhs Fifty Five Thousand Three Hundred only) as awarded by the tribunal below shall be deposited by the insurance company with Registry of the High Court of Tripura as early as possible preferably within a period of one month from today, if not paid already.

[18] However, it is made clear that on such deposit, the claimants would be at liberty to withdraw the same unconditionally as per procedure.

[19] In view of the above, the appeal stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed. Registry to do the needful as per procedure.

JUDGE

Sabyasachi G.

SABYASACHI
GHOSH

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