

HIGH COURT OF TRIPURA
AGARTALA

MAC App.88 of 2025

The Branch Manager
The Oriental Insurance Company Ltd.
Bishalgarh Branch, P.S. Bishalgarh
District- Sepahijala Tripura
(Insurer of offending vehicle No. TR-01-AM-0331(Maruti Van))

.....APPELLANT

VERSES

1. Sri Biswajit Nama
son of Sri Arjun Nama
Resident of Vill: Bhati Larma, Chikan Cherra,
P.O. East Laxmibill, PIN- 799102
P.S. Bishalgarh, Dist. Sepahijala, Tripura

.....Claimant-Respondent.

2. Shri Narayan Saha
son of late Hiralal Saha
Resident of Madhya Laxmibill, PIN 799102
P.S. Bishalgarh, Dist. Sepahijala, Tripura
(offending vehicle No. TR-01-AM-0331 Maruti Van)

.....Owner Respondent.

For the Appellant(s) : Mr. Karnajit De, Advocate.

For the Respondent(s) : Mr. Asish Nandi, Advocate.
Mr. Akash Nandi, Advocate.
Mr. Rupak Nama, Advocate.

Date of hearing and delivery of
Judgment & Order : 01.12.2025

Whether fit for reporting : YES/NO.

HON'BLE JUSTICE DR. T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)

1. This present appeal has been filed Under Section 173 of the Motor Vehicles Act, 1988 read with Section 168 of the Act ibid against the impugned judgement and award dated 16.06.2023 passed by the learned Member, Motor Accident Claims Tribunal West Tripura in case No. TS (MAC) 93 of 2017.

2. The brief facts of the claimant's case as enumerated before the learned tribunal are that the on 21.08.2016 at about 1900 hours the claimant started riding by his motor cycle bearing registration No. TR076483(Hunk) towards Valourchar to his father in law house and when he reached at Chelikhala near bridge adjoining Chalikhala Market and stop the bike on the left side of the road for natural call at that time one Maruti Van TGR01-AM-0331 coming from opposite direction with high speed and dashed left side of the standing bike rider. Resulting which the standing bike rider ie., the claimant received grievous injury in his person and later on fire service gone to spot and shifted the injured at BLG SD Hospital for treatment and later on, referred to GBP hospital for better treatment. It was contended that after incident, the local people detained the offending vehicle driver and due to treatment of the injured person, lodging of FIR was delayed and due to rash and negligence driving of the driver, the accident occurred at place. In connection with the accident BLG PS Case No. 2016/BIG/099 dated 06.09 2016 under section 279/338 of IPC and 187 of MV. Act is registered.

3. The learned Tribunal upon hearing the parties and on perusal of the material evidence on record, has decided the case by the impugned judgement and award dated 16.06.2023 passed in case No. TS (MAC) 93 of 2017 in the following manner:

“.....Order/Award

The OP No.2, The Oriental Insurance Company Limited is directed to deposit the awarded compensation of Rs. 15,44,000/- (Rupees fifteen lakh forty four thousand) only within 30 days from today with interest thereon at the rate of 7.5% per annum with effect from date of filing of the claim application i.e., from 17.05.2017 to till realization of the full.

Furnish a copy of the award to both sides.

The case stands disposed of on contest.....”

4. Being aggrieved by the aforesaid impugned order dated 16.06.2023 passed in case No. TS (MAC) 93 of 2017, the appellant has preferred this appeal seeking the following reliefs:

“(1) Admit the Appeal,

(2) Call for the case records from the Learned Tribunal Below.

(3) Stay the operation of the impugned judgment and Award dated 16.06.2023 passed in case No. TS (MAC) 93 of 2017,

(4) After hearing the parties be pleased enough to set aside/quash and modify the impugned judgement and award dated 16.06.2023 passed in case No TS (MAC) 93 of 2017.....”

5. Mr. K. De, learned counsel appearing for the appellant-insurance company submits that the award passed in favour of the claimant is on the higher side and the learned Tribunal without any documentary proof fixed the income of the claimant at Rs.15,000/- per month. He further submits that the learned Tribunal committed serious error by awarding Rs.30,000/- towards treatment, hospitalization and medicines etc., Rs.40,000/- towards cost of attendants, Rs.20,000/- towards nourishment and miscellaneous and Rs.50,000/- towards medical expenses without any sort of evidence on records. It is contended that learned Tribunal has awarded those amounts totalling to Rs.1,40,000/- only on mere presumption and guess work. He further submits that Rs.1,00,00/- as awarded by the Tribunal towards the damages for pain, suffering and trauma towards the clamant is also in the higher side. He, therefore, urges this Court to set aside or modify

the impugned judgment and award dated 16.06.2023 passed in case No. TS (MAC) 93 of 2017.

6. On the other hand, Mr. Asish Nandi learned counsel appearing for the claimant-respondent opposes the submission made on behalf of the appellant and submits that the impugned order passed by the learned Tribunal should not be interfered with by this Court.

7. Heard the submissions made at the Bar and perused the material evidence on record.

8. In view of the foregoing discussions and on perusal of the materials on record, this Court is of the opinion that as per the Notification dated 4th August, 2023 issued by the Registry of the High Court of Tripura, monthly income in the absence of any proof of income would be Rs.12,000/- per month. Thus, the monthly income of the injured as fixed by learned Tribunal below at Rs.15,000/- per month is reduced to Rs.12,000/- per month.

9. It is also opined that two months' loss of income as awarded by the learned Tribunal is not required since compensation regarding loss of income would also be calculated.

10. It is seen from the impugned judgment and order dated 16.06.2023 passed in TS (MAC) 93 of 2017 that from Ext.8 & 9 series, i.e. the medical bills, vouchers and cash memos, total amount of Rs.21,107/- was shown by the claimant towards treatment of his injury, but, the learned Tribunal below opined that the claimant might not preserved the vouchers of other cost and, therefore, total amount of Rs.30,000/- be given for expenses relating to treatment, hospitalization, medicine, transportation, nursing food and miscellaneous expenditure. This Court is of the opinion that the total amount of Rs.21,107/- as per the medical bills, vouchers, cash memos etc. shown by the claimant be awarded to him instead of Rs.30,000/- which was awarded as extraneous under presumption.

11. It is also observed that the learned Tribunal has awarded Rs.40,000/- towards cost of attendants, the same may be reduced to Rs.20,000/- only and Rs.20,000/- towards nourishment and miscellaneous as awarded by the learned Tribunal, be reduced to Rs.10,000/- only.

12. Learned Tribunal has awarded Rs.50,000/- towards future medical expenses and Rs.50,000/- more for the purpose of loss of amenities. It is opined that, those amounts awarded by the Tribunal may be excluded from the impugned award as extraneous.

13. This Court also opines that the amount of Rs.1,00,000/- which has been awarded by the learned Tribunal as damages for pain, suffering and trauma as a consequence of the injuries, be reduced to Rs.50,000/-.

14. Hence, the impugned award passed by the learned Tribunal below is re-calculated as under:

RE-CALCULATION

The income of the claimant is Rs.1,44,000/- per year (assuming Rs.12,000/- per month). As such, 40% of Rs.1,44,000/- (considering his disability) = Rs.57,600/- .

Adopting multiplier 17, actual loss of income will be Rs.57,600/- X 17 = **Rs.9,79,200/-**.

Total amount of **Rs.21,107/-** is also awarded to the claimant as per the medical bills, vouchers, cash memos etc submitted before the Tribunal.

The amount of **Rs.20,000/-** is awarded towards cost of attendants.

The amount of **Rs.10,000/-** is awarded towards nourishment and miscellaneous.

For the damages for pain, suffering and trauma as a consequence of the injuries, **Rs.50,000/-** is also awarded to the claimant.

Thus, the total amount to be awarded to the claimant comes to [Rs.9,79,200/- + Rs.21,107/- + Rs.20,000/- + Rs.10,000/- + Rs.50,000/-] = **Rs.10,80,307/-**.

15. Thus, the re-calculated total award to be received by the claimants from the appellant insurance company would be **Rs.10,80,307/- with 7.5% interest per annum**. It is made clear that insofar as other aspects of the impugned award by the learned Court below dated 16.06.2023 passed in case No. Title Suit (MAC) 93 of 2017 are concerned, the same need no interference and the same shall remain unaltered.

16. Accordingly, the award passed by the learned Tribunal is modified to the extent as indicated above. The appeal preferred by the Insurance Company is hereby partly allowed and the same disposed of. The modified awarded amount of **Rs.10,80,307/-** with 7.5% interest per annum shall be deposited by the insurance company within a period of one month from today, if not already deposited. On such deposit, the claimant would be at liberty to withdraw the same unconditionally as per procedure.

17. It is also ordered that the statutory amount, if any, be returned to the appellant insurance company as per procedure.

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

DR. T. AMARNATH GOUD, J