

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.72 of 2024

1. Shri Ajendra Reang.

..... *Appellant*

-V E R S U S-

1. Sri Keshab Shil and Others.

.....*Respondents.*

B_E_F_O_R_E
HON'BLE MR. JUSTICE T. AMARNATH GOUD

For Appellant(s)	:	Mr. A. Acharjee, Advocate. Mr. S. K. Bhattacharya, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Advocate.
Whether fit for reporting	:	NO

Judgment and order dated 28th May, 2025

JUDGMENT & ORDER [ORAL]

Heard.

[2] The present application has been filed under Section-173 of the Motor Vehicle Act, 1988, for enhancement of the awarded amount of Rs.4,67,721.192/- passed the award dated 05.06.2024 by the learned Member, Motor Accident Claims Tribunal No.2, Gomati Judicial District, Udaipur in T.S. (MAC) 20 of 2020, to the extent of Rs.40,00,000/- or more as the Court seems adequate compensation on the fact and circumstances of the present case along with the prevailing market rate of interest.

[3] The brief facts of the claimant-petitioner's, the appellant herein, are that on 13.05.2019 at about 1530 hours the injured Ajendra Reang was proceeding towards Garjee Bazar riding his Motor bike bearing No. TR-03E-5793 with a moderate speed keeping extreme left side of the road and on reaching in front of Garjee Agriculture Office on NH-8 road, suddenly the vehicle bearing No. TR-03-A-3759(Bolero) came from opposite direction with an abnormal high speed and in a rash and negligent manner dashed the Motor bike of the injured petitioner. As a result the petitioner fell down on the road and received Polytrauma Right Brachial Plexus injury, Right Anom fracture, Left Acetabular fracture and other multiple bleeding injuries all over his body.

CT angiography of right upper limb arteries shows complete block of radial artery just after its origin from brachial artery. X-ray Pelvis appears undisplaced fracture of anterior pillar of left hip joint with mild widening of left SI joint and fracture of right inferior pubic ramus.

[4] The motor bike of the injured was also badly damaged due to this accident. Soon after the accident on 13-05-2019 the injured was taken to Gomati District Hospital, Udaipur by the local people and considering the gravity of injuries the injured was referred to AGMC & GBP Hospital, Agartala and admitted at G.B.Hospital, Agartala on 13-05-2019 and treated upto 20-05-2019 as indoor patient. But the physical condition deteriorating day by day, on 20-05-2019 the medical board of GB Hospital referred the injured to Medico Superspeciality Hospital, Kolkata.

[5] On 21-05-2019 the injured escorted by a doctor of GB Hospital and two others as helper moved to Kolkata by Air India and admitted at Joint & Bone Care Hospital, Kolkata. Where he was treated as indoor patient w.e.f 21-05-2019 to 09-06-2019. During his treatment as an indoor patient several X-ray, medical examinations, CT scan and operations were done. On 09-06-2019 he was discharged from that Hospital with advise to review after 2 weeks. Thereafter, the injured is still continuing his treatment under private doctors. After prolonged treatment also the injured did not recover from his injuries. In future also there is no chance to fully recover from these injuries.

[6] Due to such RTA a written ejahar was lodged with the O/C of R.K.Pur PS, vide R.K. Pur PS Case No. 71 of 2019, under Sections 279/338 of IPC and under Section 177/184/187 of the MV Act against the driver of offending vehicle bearing registration No. TR-03-A-3759 (Bolero). The claimant-petitioner further alleged that the accident occurred due to the rash and negligent driving by the driver of vehicle bearing registration No. TR-03-A-3759 (Bolero). The claimant-petitioner also stated that at the time of accident he was aged about 32 years old and having monthly income of Rs. 35,000/- as a Govt. Employee (Fireman of Tripura Fire Service) claiming compensation to the tune of Rs.40,00,000/-.

[7] The owner and driver of the offending vehicle bearing registration No. TR-03-A-3759 (Bolero) contested the case by filing joint written statement. Apart from denying the age, occupation, monthly income

and the other averments made in the claim petition, the OP's also denied the total expenditure incurred thereon by the claimant-petitioner. The OP's also stated that on the alleged date of accident the vehicle bearing registration No. TR-03-A-3759 (Bolero) was driven by OP No.2 having valid driving license bearing No. TR-0820130010917, the accident took place due to no fault of the O.P No.2, and if any compensation is awarded in favour of the claimant petitioner that would be borne by the O.P No.3 i.e. Oriental Ins. Co. Ltd, as on the alleged dated of accident dated 13.05.2019 the vehicle bearing Registration No.TR-03-A-3759 (Bolero) is duly insured with the OP No.3 vide Policy No.322792/31/2019/930 w.e.f. 21.07.2018 to midnight of 20.07.2019.

[8] The Oriental Insurance Company Limited, the insurer of the offending vehicle bearing registration No. TR-03-A-3759 (Bolero) in their written statement denied the narration made in the claim petition the manner in which the accident was described to have taken place. They also denied the age, income and avocation as well as the health condition of the injured at the time of accident and further stated that in case of violation of any terms and conditions of the insurance policy they would not be responsible to indemnify the owner. According to the OP No.3 they were not aware of any criminal case registered relating to the alleged accident. Further, the owner as well as the driver of the offending vehicle did not inform them anything about the accident. The OP No. 3 further stated that they are not liable to pay any compensation until and unless it is proved that the person at the wheel was having valid and effective driving license to drive such vehicle and it was roadworthy to ply including valid route permit/ fitness certificate etc. It is, therefore, prayed by the OP No. 3 for dismissal of the claim petition with cost.

[9] The learned Court below after hearing the parties and on perusal of the material evidence on record, has observed as under:

“18. In the result, it is hereby ordered that the claimant-petitioner is entitled to get compensation of Rs.2,35,121.92/-only 4,67,721.92/- round off Rs. 2,35,121.92/-only Rs. 4,67,722.00/-, (Rupees Four lac sixty seven thousand seven hundred twenty two) only. The OP No. 3 the Oriental Insurance Company Limited., being the insurer of the offending vehicle bearing registration No. TR-03-A-3759 Bolero is directed to make the payment of compensation to the claimant-petitioner within 30 (thirty) days from today along with interest thereon @ 7.5% per annum from the date of filing of claim petition, i.e. 6.07.2020 till payment/realization of the same.

19. Supply a copy of the award to the parties free of cost.

20. Also send a copy of this judgment to the OP No.3 i.e. the Oriental Insurance Company Ltd., Belonia, South Tripura through their Official email ID as earliest to do the needful.”

[10] Being aggrieved by and dissatisfied with the award, the appellant has preferred the present appeal before this Court for redress.

[11] Learned counsel appearing for the appellant has submitted that the learned Court below has failed to consider the vital points as because due to the alleged accident, the appellant shifted to Gomati District Hospital, Udaipur by the local people and considering the gravity of injuries the injured was referred to AGMC & GBP Hospital, Agartala and admitted at G.B. Hospital, Agartala on 13.05.2019 and treated upto 20.05.2019 as indoor patient. But the physical condition deteriorating day by day, on 20.05.2019 the medical board of GB Hospital referred the injured to Medico Superspeciality Hospital, Kolkata. But the learned Court below failed to consider the same and passed the judgment and award illegally and arbitrarily.

[12] The learned Court below has awarded an amount of Rs. 15,000/- as compensation for the purpose of pain and sufferings due to vehicular accident which is very much lesser. But the learned Court below has failed to consider these legal aspects. So, the amount of Rs. 1,00,000/- (one lakh rupees) may kindly be enhanced for the purpose of pain and sufferings. The disability Certificate (Exbt.14) which has been submitted by the claimant has not been properly examined by the learned Court below. The disability Certificate of the claimant clearly reflected 70% locomotor disability and due to said disability the claimant is fully unable to work for earning money.

[13] The learned Court below has awarded an amount of Rs. 50,000/- for the purpose of future medical expenses which are very much lower and need to be enhanced upto Rs. 1,00,000/- for the purpose of future medical expenses. The monthly income of the claimant is Rs. 10,000/- per month, but the claimant is a Government Employee under the department of T.F.S [Tripura Fire Service, for short] and his monthly income is Rs. 35,000/- per month. As such, the assessment as has been done by the learned Court below has been interfered with.

[14] There is no material to suggest that the claim-petition is not maintainable in its present form and nature. Further the evidence, particularly

Final report (Exbt.4) led by the claimant-petitioner clearly shows that the alleged accident occurred due to the rash and negligent driving by the driver of the offending vehicle bearing Registration No. TR-03-A-3759 (Bolero). As the evidence of PW.1 shows that the accident occurred due to rash and negligent driving by the driver of vehicle bearing Registration No. TR-03-A-3759 (Bolero). So, it is clear that on 13.05.2019 at about 1530 hours the injured Ajendra Reang sustained Polytrauma Right Brachial Plexus injury, right humerus fracture, left Acetabular fracture and other multiple bleeding injuries all over his body. CT angiography of right upper limb arteries shows complete block of radial artery just after its origin from brachial artery. X-ray pelvis appears undisplaced fracture of anterior pillar of left hip joint with mild widening of left SI joint and fracture of right inferior pubic ramus following the RTA.

[15] It is established that on the date of accident dated 13.05.2019 the driver of the vehicle bearing registration No. TR-03-A-3759 (Bolero), was driving vehicle having valid driving license (Exbt.B) and also the alleged vehicle bearing registration No. TR-03-A-3759 Bolero, is insured with OP No. 3, Oriental Ins. Co. Ltd., covering the period from 21.07.2018 to midnight of 20.07.2019.(Exbt. E) So, the liability for payment of compensation is fixed upon the OP No. 3 the Oriental Insurance Company Limited, Belonia, South Tripura, being the insurer of the offending vehicle bearing registration No. TR-03-A-3759 Bolero.

[16] Insofar as the disability is concerned, the doctors who issued the certificate after prolonged period of accident were not examined. Therefore, that cannot be any wait-age of the said certificate. In view of above and having regard to the assessment of compensation as assessed by the learned Court below, this Court opines that the same is just and proper and needs no interference as the reasoning given in the award itself is sufficient. As such, the judgment and award is, accordingly, confirmed and consequently, the appeal stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed. Draw the decree accordingly and thereafter, send down the LCRs forthwith.

T. AMARNATH GOUD, J

A.Ghosh