

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.67 of 2025

The Branch Manager,
New India Assurance Company Ltd.
Mantribari road, Agartala
P.S. West Agartala,
District-West Tripura

.....Appellant

VERSUS

1. **Sri Milan Majumder**
S/O Lt. Amulya Majumder
2. **Sri Mani Sankar Majumder**
S/O Sri Milan Majumder
Both are resident of Santirbazar (Sugar
Mill) P.O. & P.S. Santirbazar,
Dist- South Tripura.

.....Respondent-claimant-petitioners.

3. **Sri Bikram Majumder**
S/O Late Binoy Bhusan Majumder
Resident of Village- Paschim Charakbai
P.O. Charakbai P.S. Baikhora,
District-South Tripura, Pin-799142
(Owner of vehicle No. TR-08B-9275,
Apache)
4. **Sri Ripan Das**
S/O Sri Dulal Das
Resident of Vill- Paschim Charakbai
(Madhya Para)
P.O. Charakbai P.S. Baikhora,
District-South Tripura, Pin-799142
(Rider of vehicle No. TR-08B-9275,
Apache)

.....Respondents

For Appellant(s) : Mr. Alik Das, Advocate.

For Respondent(s) : Mr. Nitai Chowdhury, Advocate
Mr. Anjan Kanti Pal, Advocate
Mr. Rajib Majumder, Advocate
Ms. M. Chakraborty, Advocate

C.O.(F.A.) 12 of 2025
in MAC App.No.67 of 2025

- 1. **Sri Milan Majumder**
S/O late Amulya Majumder
- 2. **Sri Mani Sankar Majumder**
S/O Sri Milan Majumder
Both are resident of Santirbazar (Sugar Mill) P.O. & P.S. Santirbazar,
Dist- South Tripura.

..... Cross-objectors

VERSUS

- 1. **Sri Bikram Majumder**
S/O Late Binoy Bhusan Majumder
Resident of Village- Paschim Charakbai
P.S. Baikhora, District-South Tripura,
(Owner of vehicle No. TR-08B-9275,
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- 2. **Sri Ripan Das**
S/O Sri Dulal Das
Resident of Vill- Paschim Charakbai
(Madhya Para)
P.S. Baikhora, District-South Tripura,
(Rider of vehicle No. TR-08B-9275,
Apache)
- 3. **The Branch Manager,**
New India Assurance Company Ltd.
4 Mantribari road, Agartala
P.O. Aagartala, P.S. West Agartala,
District-West Tripura,
(Insurer of the vehicle No. TR-08B-9275)

.....Respondents

For Cross-Objector(s)	: Mr. Anjan Kanti Pal, Advocate Mr. Rajib Majunder, Advocate.
For Respondent(s)	: Mr. Alik Das, Advocate.
Date of hearing and delivery of judgment and order	: 15.09.2025
Whether fit for reporting	: YES/NO

HON'BLE JUSTICE DR. T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

[1] The present appeal being MAC App.No.67 of 2025 is filed seeking the following reliefs:

“(i) Admit this memo of appeal;

(ii) Issue notice upon the respondents;

(iii) Call for the case records vide case no. T.S. (MAC) 01/2022 Learned Member, Motor Accident Claims Tribunal, Tribunal No.1, **** South Tripura, Belonia in connection with case no. T.S. (MAC) 01/2022.

(iv) To stay the operation of the judgment and award dated 19/02/2025 passed by the Learned Member, Motor Accident Claims Tribunal, Tribunal No.1, **** South Tripura, Belonia in connection with case no. T.S. (MAC) 01/2022 till disposal of the present appeal;

AND

(v) After hearing the parties, Your Lordship would be kind enough to set aside/quashed the impugned judgment dated 19/02/2025 passed by the Learned Member, Motor Accident Claims Tribunal, Tribunal No.1, **** South Tripura, Belonia in connection with case no. T.S. (MAC) 01/2022.

(vi) To pass necessary any other order/orders as Your Lordship deems fit and proper.....”

[2] On the other hand, the present cross-objection being C.O.(F.A.) 12 of 2025 in MAC App.No.67 of 2025 has been preferred by the cross-objectors seeking the following reliefs:

“(i) Admit the appeal;

(ii) Issue notice upon the respondents,

(iii) Call for the case records of vide T.S.(MAC) 01/2022 from the court of Learned Member, Motor Accident Claims Tribunal, Court no.1, Belonia, South Tripura;

AND

(iv) After hearing both the sides Your Lordship would be kind enough to enhance the amount of Rs.35,44,000/- along with 9% interest from the awarded amount of Rs11,25,000/- only being just and appropriate compensation by way of modify the judgment and order dated 19/02/2025 passed by Learned Member, Motor Accident Claims Tribunal, Court no.1, South Tripura Judicial District, Belonia in connection with T.S.(MAC) 01/2022 for fair ends of justice.....”

[3] Since both the appeal and cross-objection arise from the same judgment and award and the similar question of fact and law are involved, accordingly, both the appeal and cross-objection are heard and taken up together for adjudication and disposal in a common order.

[4] The brief facts of the case as enumerated before the tribunal, is that on 11.08.2019 at about 6:02 pm the claimant-petitioner No.1 along with the deceased was proceeding towards Sabroom by riding his motorbike bearing No. TR-03C9147 (Hero Super Splendor) on NH-8 from Santirbazar Sugar Mill area to attend an invitation. On the way, at about 7 pm, while they reached at SSB Camp area, at that time suddenly one cow came in front of the bike on the road and both the petitioner and deceased fell down on the road. It was contended that at that time, the motorbike bearing No. TR-08B-9275, hereinafter referred as offending bike, came from Baikhora side with rash and negligent manner ran over the body of the deceased due to which the deceased sustained grievous injury on her person. Immediately, the deceased was taken to Baikhora PHC, but the attending medical officer declared her brought dead. In this connection, a specific case vide Baikhora PS Case No. 88/2019, under Sec. 279/338/304A of IPC was also registered and the claimant-petitioners, therefore, approached before the tribunal seeking compensation due to death of the deceased and quantified their claim to the tune of Rs.21,70,000/-.

[5] The OP No.1 and 2, owner and rider respectively of the offending bike through their joint written statement apart from denying all the allegations in the claim petition contended, inter alia, that the offending bike is not involved with the alleged accident and so, the claimant-petitioners are not entitled to any compensation. The case of OP No. 3 i.e. the Manager, New India Assurance Company Ltd., was also of total denial and thereby put the claimant(s) in strict proof thereof.

[6] Thereafter, learned Court below upon hearing the parties and on perusal of the material evidence on record, decided the case by its judgment and award dated 19.02.2025 passed in TS(MAC) 01 of 2022. The relevant contents of the said judgment and award are extracted as under:

“.....10(b). Now, in view of the aforesaid principles of law I proceed to calculate the appropriate compensation in the present case as under:-

(I) Income per month = Rs.15,000/- only.

(II) 10% of above to be added as future prospect :- Rs.1,500/- only.

(III) The sum total of (I) and (II) works at :- Rs. 16,500/-.

(IV) 50% of above to be deducted as personal and living expenses of deceased:- Rs.16,500/- (minus) Rs.8,250 /- = Rs.8,250/- only.

(V) Compensation after applying multiplier of 11:- Rs. 8,250 x 12 x 11 = 10,89,000/- only.

(VI) Loss of Estate = Rs.15,000/- (+) 20% =18000/-.

(VII) Funeral expenses = Rs.15,000/- (+) 20% =18000/-.

[Due to elapse of 6 years of the judgment passed in Pranay Shethi (Supra) 20% has been added under the head of loss of estate and funeral expenses].

10(c). Thus, total compensation stands at Rs.10,89,000 + 18,000 +18,000 = Rs.11,25,000/- only.

11. Now coming to the question of liability, it appears that the OP No.1 being the owner of the offending bike has claimed that his vehicle on the day of accident was insured with the OP No.3. Accordingly, the OP No.1 as OPW-1 has proved the policy of insurance [Exbt. C(i) to C(ii)] which in clear terms shows that on the day of accident the vehicle was insured with the OP No.3, the New India Assurance Company Ltd. Learned Advocate for the insurer, however, contented that the offending bike was driven by OP No.2 without having valid driving licence and as such liability of the insurer cannot be fastened. In support of his contention learned Advocate has referred a judgment of Hon'ble Supreme Court reported in 2013 (3) TAC 29 (SC) (*United India Insurance Co. Ltd. Vs. Sujata Arora & Ors.*). The citation as referred by learned Advocate for the insurer shows that, in that case the driver driven the offending vehicle was having a fake driving licence. In the case at hand, it is not the case of the insurer that the rider of the offending bike rode the offending bike having no driving licence or having any fake driving licence. In this view of the matter, the argument so placed by learned Advocate stands discarded. Therefore, the OP No.3, in my considered opinion, being the insurer of the offending vehicle is liable to satisfy the award. Issue under consideration accordingly stands answered to the extent as indicated above.

In view of the issue-wise discussion as we had herein-above, I order as follows:

12.

O R D E R

In the result, claim is awarded in following terms:-

(i) Claimant petitioners are entitled to get the award of Rs.11,25,000/only/- (Eleven Lakh Twenty-five Thousand) only in equal share with 6% Simple interest per annum from the date of registration of claim i.e., w.e.f. 17.01.2022 till the date of realization thereof.

(ii) 75% of the share of the claimant-petitioner No.2 in the award be invested by purchasing separate Fixed Deposit certificate from any Nationalized Bank at least for the next 5 years with auto renewal facility and no loan or advance or pre-mature withdrawal shall be allowed without prior sanction of this Tribunal. However, the claimant-petitioner No.2 shall have the liberty to withdraw the monthly interest therefrom. Rest part of award be directly transferred to his individual bank account. The entire share of claimant-petitioner No.1 in the award be released in his favour.

The OP No.3, i.e., the New India Assurance Company Limited shall deposit the awarded amount along with interest thereon within one month to this Tribunal.....”

[7] Heard learned counsel appearing for the respective parties and perused the record.

[8] On perusal of record, it is seen that learned Court below deducted 50% of the monthly income of the deceased in terms of her personal and living expenses. However, this Court opines that following principles laid down by Hon’ble Apex Court in its judgment titles as ***Sarala Verma (Smt) and others Vs. Delhi Transport Corporation and another*** reported in ***(2009) 6 SCC 121***, since there are two dependents of the deceased, $1/3^{\text{rd}}$ of the monthly income is to be deducted in terms of the personal and the living expenses of the deceased instead of 50%. Accordingly, the same needs to be recalculated.

[9] In view of the above, the calculation of the awarded amount is recalculated herein below:

Recalculation

- (I) Income per month = Rs.15,000/- only.
- (II) 10% of the above to be added as future prospect:- Rs.1,500/- only.
- (III) The sum total of (I) and (II) works at:- Rs.16,5000/-
- (IV) $1/3^{\text{rd}}$ of the above to be deducted as personal and living expenses of deceased:- Rs.16,500/- (minus) Rs.5,500/- = Rs.11,000/- only.
- (V) Compensation after applying multiplier of 11:- $11,000 \times 12 \times 11 =$ Rs.14,52,000/- only.
- (VI) Loss of Estate = Rs.15,000/- (+) 20% = Rs. 18000/-
- (VII) Funeral expenses = 15.000/- (+) 20% = Rs.18000/-

Thus the total compensation to be awarded stands at [Rs.14,52,000/- + Rs.18,000/- + Rs.18,000/-] = **Rs.14,88,000/- only**.

[10] It is also observed, in all the similarly situated matters this Court is fixing 7.5% interest to maintain uniformity thus, ends of justice would be met if the rate of interest fixed by the learned tribunal be increased from 6% per annum to 7.5% per annum. Consequently, the total compensation entitled by the claimant-respondent(s) would be **Rs.14,88,000/-(Fourteen Lakh Eighty-eight Thousand only)** along with the modified rate of interest i.e. **7.5 % simple interest per annum** from the date of presentation of the claim petition till the date of actual payment. It is needless to observe that, apart from the observation made above, all other aspects of the impugned judgment and award passed by the learned Court below shall remain unaltered.

[11] In view of the above, the impugned award passed by the learned Court below is modified to the extent as indicated above. Thus, the appellant insurance company is liable to pay the total amount as awarded above to the claimants. The amount is to be deposited within one month from today with the Registry of the High Court of Tripura if not already paid, and on such deposit, the claimants will be at liberty withdraw the same unconditionally as per procedure. Hence, the present appeal is hereby disposed of. The cross-objection filed by the claimants shall also stand disposed of.

[12] As a sequel miscellaneous application(s) pending if any, shall stand closed.

DR. T. AMARNATH GOUD, J.

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