

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP. NO.115 OF 2024**

The Branch Manager National Insurance Company Ltd.

..... **Appellant(s)**

Versus

Sri Jayanta Debnath and anr.

.....**Respondent(s)**

For the Appellant(s) : Mr. Shubajit Chakraborty, Advocate.
Mr. S. Das, Advocate.

For the Respondent(s) : Mr. Ratan Datta, Advocate.
Ms. Saswanti Nag, Advocate.

Date of hearing and delivery of
Judgment & Order : 04.04.2025

Whether fit for reporting : YES.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R(ORAL)**

This appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed by the appellant-Insurance Company, challenging the Judgment and Award dated 31.08.2023, passed by the Learned Motor Accident Claims Tribunal, South Tripura, Sabroom, in Case No. T.S. (MAC) 13 of 2022.

2. The brief facts of the case are that on 30.06.2016, when the victim was proceeding towards his home by boarding the vehicle bearing No. TR-08-2580 (Auto-Rickshaw), and when it

reached the Manu River Bridge, due to the rash and negligent driving of the driver of the Auto-Rickshaw, it dashed against the left-side iron railing of the bridge. As a result, the victim sustained grievous fracture injuries on his leg. Immediately after the accident, the victim was taken to Manubazar Primary Health Centre, from where he was referred to GBP Hospital, Agartala for treatment. The claimant-respondent, i.e., Respondent No.1 herein, on 25.02.2020 filed an application under Section 166 of the Motor Vehicles Act, 1988 for granting compensation of Rs.13,38,000/- due to the injuries sustained by the victim in the alleged accident that took place on 30.06.2016. After hearing the parties and upon conclusion of the trial, the Learned Tribunal below passed the Judgment and Award dated 31.08.2023, whereby the petition under Section 166 of the Motor Vehicles Act was allowed. The Claimant-Respondent No.1 was awarded a sum of Rs.3,65,000/- (Rupees Three Lakh Sixty-Five Thousand only) with interest thereon at the rate of 9% per annum, effective from the date of filing the claim application i.e., from 25.02.2020 till realization. Against the impugned Judgment and Award, which is claimed to be excessive and erroneous, the appellant-Insurance Company has preferred the instant appeal.

3. Heard Mr. Shubhajit Chakraborty, learned counsel appearing for the appellant-Insurance Company, as well as Ms. S. Nag, learned counsel appearing for Respondent No.1.

4. When the case is called, learned counsel for the appellant-Insurance Company places on record the proof of payment of Rs.20,000/- in compliance with the Order passed by this Court dated 10.02.2025. Accordingly, the Order dated 10.02.2025 of this Court stands complied with, and the condone delay application is closed. Mr. Chakraborty, learned counsel for the appellant-Insurance Company, submits that the learned Tribunal erred in law in fastening the liability to pay compensation upon the appellant-Insurance Company. He contends that the impugned Judgment and Award dated 31.08.2023 is unsustainable in law and deserves to be set aside or suitably modified. Learned counsel submits that the driver of the offending vehicle, bearing registration No. TR-08-2580 (Auto-Rickshaw), held only a Non-Transport driving license at the time of the accident, which is a clear violation of Section 3 of the Motor Vehicles Act, 1988. He further refers to the charge sheet filed in the matter, wherein it is specifically mentioned that the Owner-cum-Driver (Respondent No.2) was operating the vehicle without the requisite authorization, thereby committing an offence under Section 182 of the Motor Vehicles Act. It is further submitted that the Owner-cum-Driver violated the terms and conditions of the insurance policy by driving the vehicle without a valid transport license and without producing any valid route permit

for the said Auto-Rickshaw on the date of the accident. These violations, according to the appellant, exonerate the Insurance Company from any liability to pay compensation, and the burden of compensation should rightfully shift to the Owner-cum-Driver, i.e., Respondent No.2. In light of these submissions, learned counsel for the appellant-Insurance Company prays that the appeal be allowed, and the impugned Judgment and Award passed by the learned Tribunal be set aside.

5. The claimant and the owner of the vehicle alone deposed in the case before the learned Tribunal. The appellant did not present any witness or take steps to produce evidence before the learned Tribunal. The Insurance Company made no attempt to substantiate its case during the trial. Having chosen to remain passive and silent during the proceedings before the learned Tribunal, it is now impermissible for the appellant to raise new contentions or challenge factual findings before this Court. The Insurance Company, having failed to discharge its burden of proof or contest the claim effectively at the trial stage, cannot now seek to re-argue its case on merits.

6. At times such careless and indifferent approach by the Insurance Company directly contributed in the awarding of a higher compensation amount. Such conduct reflects a lack of

seriousness in defending the claim and results in misuse of public funds, as insurance payouts are ultimately sourced from public contributions in the form of premiums. When officers of a public or government-run Insurance Company fail to fulfill their duties, the financial burden falls on the public, leading to increased premiums and loss of trust in the system.

7. This Court is of the considered view that such behavior must not go unchecked and that accountability must be fixed on the officers responsible for mishandling the case despite it is intentional or due to negligence or mistake for whatever the reasons.

8. This Court has previously held in several matters that, in cases of laches and non-performance of duties by officers, as required under their service conditions, the resulting loss and hardship caused to the institution cannot be attributed to the institution itself. Instead, the liability should be fastened upon the erring officers whose actions led to such outcomes. Any compensation decided in this regard must be recovered from the concerned erring officer, and the burden cannot be imposed upon the institution, which would, in turn, shift the burden onto innocent citizens by collecting enhanced premiums in subsequent years. This principle was laid down by this Court in reported judgments such as

MAC. APP. No. 89 of 2023, titled as **Oriental Insurance Company vs. Smt. Aparna Nath and Others**, dated **22.07.2024**; **MFA(FA) No. 02 of 2023**, titled as **The Tripura State Electricity Corporation Ltd. and Others vs. Smti. Kamalapati Kaloi and Others**, dated **11.07.2024**; and **MAC. APP. No. 94 of 2023**, titled as **The United India Insurance Co. Ltd. vs. Smti. Champa Rani Saha and Others**, dated **17.01.2025**.

9. Along the same lines, the Hon'ble Supreme Court of India, in its judgment passed in **Civil Appeal No. 1876 of 2016**, titled as **Central Bank of India and Others vs. Smt. Prabha Jain and Others**, and its Judgment reported in **(2021) 3 SCC 806**, titled as **Boloram Bordoloi vs. Lakhimi Gaolia Bank and Others**, has taken the view that if any loan is disbursed by erring officers in contravention of their service conditions, the liability cannot be fastened upon the Bank. Instead, such liability must be also borne upon the concerned officer/manager whose actions led to the erosion of public trust in the Bank and the Bank employee is liable to be actioned against him.

10. The relevant paragraphs from the said Hon'ble Supreme Court Judgments are referred here-under:-

i. Para-44 of *Central Bank of India and ors. Vs.*

Smt. Prabha Jain:-

"44. Before we close this litigation, we deem it necessary to observe that Banks should remain very careful with inadequate title clearance reports, more particularly, when such reports are obtained cheaply and at times for external reasons. This concerns the protection of public money and is in the larger public interest. Therefore, it is essential for the Reserve Bank of India and other stakeholders to collaborate in developing a standardized and practical approach for preparing title search report before sanctioning loans and also for the purpose of determining liability (including potential criminal action) of the Officer who approves loan. Additionally, there should be standard guidelines for fees and costs associated with title search reports so as to ensure that they maintain high quality.

ii. Para-13 of *Boloram Bordoloi Vs. Lakhimi Gaolia*

Bank and ors(supra):-

"13. The manager of a bank plays a vital role in managing the affairs of the bank. A bank officer/employee deals with the public money. The nature of his work demands vigilance with the inbuilt requirement to act carefully. If an officer/employee of the bank is allowed to act beyond his authority, the discipline of the bank will disappear. When the procedural guidelines are issued for grant of loans, officers/employees are required to follow the same meticulously and any deviation will lead to erosion of public trust on the banks. If the manager of a bank indulges in such misconduct, which is evident from the charge memo dated 18.06.2004 and the findings of the enquiry officer, it indicates that such charges are grave and serious. In spite of proved misconduct on such serious charges, disciplinary authority itself was liberal in imposing the punishment of compulsory retirement. In that view of the matter, it cannot be said that the punishment imposed in the disciplinary proceedings on the appellant, is disproportionate to the gravity of charges. As such, this submission of the learned counsel for the appellant also cannot be accepted."

11. Accordingly, the appeal stands dismissed, confirming the impugned Judgment and Award as passed by the learned Tribunal below. The entire awarded amount as determined by the learned Tribunal is to be paid by the appellant-Insurance Company to the claimant within a period of 1(one) month from today.

12. The Insurance Company shall recover the said amount from the erring officers responsible for handling the matter relating to this Motor Accident Claim, who failed to act with due diligence, resulting in an adverse outcome. The claimant is permitted to withdraw the said amount upon deposit as per procedure. The Registry is directed to do the needful.

13. A copy of this judgment be marked to the Chairman and *Managing Director, National Insurance Company Ltd., Ms. Rajeshwari Singh Muni, at the Company Head Office located at Premises No. 18-0374, Plot No. CBD-81, New Town, Kolkata-700156* to get the compensation paid to the claimant and recover the same from the erred officers of the Insurance Company.

14. As a sequel, any stay stands vacated. Pending application(s), if any, also stand closed.

JUDGE

Suhanjit

RAJKUMAR
SUHANJIT SINGHA

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SUHANJIT SINGHA
Date: 2025.04.10 13:11:50 +05'30'