

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.113 OF 2024**

National Insurance Co. Ltd.

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

Versus

Smt. Sima Rani Debbarma and ors.

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

For the Appellant(s) : Ms. Rajashree Purukayastha, Advocate.

For the Respondent(s) : Mr. Ratan Datta, Advocate.
Mr. Saugat Datta, Advocate.
Mr. Biswajit Nath, Advocate.
Mr. A.T. Paul, Advocate.
Mr. A. Baidya, Advocate.

Date of hearing and delivery of
Judgment & Order : 25.04.2025.

Whether fit for reporting : NO.

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

The present appeal has been filed against that part of the impugned Judgment and Award dated 20.06.2024, passed by the learned Motor Accident Claims Tribunal No.1, West Tripura, Agartala in T.S. (MAC) 228/2021, whereby the learned Tribunal awarded compensation of Rs.16,44,000/- (Rupees Sixteen Lakh Forty-Four Thousand only) to the claimant-respondents, to be paid by the Noticee-Appellant, with interest at the rate of 9% per annum from

the date of filing of the petition, i.e., 01.12.2021, till the date of actual payment, within 30 days from the date of award.

2. The brief facts of the case are that on 28.08.2021, at about 8:00 PM, victim-Raju Debbarma suffered injuries by the vehicle bearing registration no. TR-07-A-1511 (Bolero Mahindra), which was coming from Gabardi towards Chelikhola at high speed, being driven rashly and negligently. He was shifted to Bishalgarh Hospital for treatment, but the attending doctor, after examining Raju Debbarma, declared him dead. As the victim died in a tragic road traffic accident, the appellants, being the surviving legal heirs of the deceased, claimed compensation to the tune of Rs.52,59,000/-. The learned Tribunal, by the impugned award dated 20.06.2024, awarded compensation of Rs.16,44,000/- (Rupees Sixteen Lakh Forty-Four Thousand only) to the claimant-respondents, to be paid by the Noticee-Appellant Insurance Company with interest at the rate of 9% per annum from the date of filing of the petition, i.e., 01.12.2021, till the date of actual payment, within 30 days from the date of the award. Aggrieved thereby, the appellant-Insurance Company has filed this appeal seeking to set aside and quash the impugned part of the Judgment.

3. Heard Ms. R. Purukayastha, learned counsel appearing for the appellant-Insurance Company, as well as Mr.

Saugat Datta, learned counsel appearing for the claimant-respondents.

4. Ms. Purukayastha, learned counsel appearing for the appellant-Insurance Company, submits that the offending vehicle did not have any route permit to ply on the road. Learned counsel further submits that the deceased was a gratuitous passenger in a goods-carrying vehicle, and in such a case, there is a clear violation of the policy condition. Hence, the appellant cannot be held liable to compensate the claimants.

5. On the other hand, Mr. Saugat Datta, learned counsel appearing for the claimants, submits that the Noticee-Insurance Company did not raise the above-mentioned points before the Trial Court, and as such, it is not open for the appellant-Insurance Company to improve its case by way of appeal.

Further, the learned counsel appearing for the claimants relied upon the Judgment and Order passed by this Court dated **04.04.2025** in **MAC.APP. No.114 of 2024**, wherein, this Court recorded that the careless and indifferent approach of the Noticee-Insurance Company in the Trial Court directly contributed to the awarding of the higher compensation amount and held the erred officer of the noticee-Insurance company liable for such higher award.

6. Heard and perused the evidence on record.

7. The only points which fall for consideration before this Court during the course of argument by the learned counsel appearing for the appellant-Insurance Company are that the route permit was not produced by the owner of the vehicle, and accordingly, the insurance company is not liable to pay, and also the ground regarding the deceased being a gratuitous passenger.

8. The evidence of OPW-3, Mr. Dipen Sur, the Administrative Officer of the Insurance Company, is extracted herein-under:

"OPW-3 Sri Dipen Sur, the Administrative Officer of the Noticee Insurance Co. in his oral evidence deposed that OPW-3 is well conversant with the facts and circumstances of this case and he has been duly authorized by the Divisional Manager of the Company to depose as a witness of this case. OPW-3 was duly cross examined by the claimant petitioners side and he denied the suggestion that being the administrative officer, he is a partisan witness of this case and he had sworn a false affidavit in this case. However, cross examination of this witness was declined by OP-Owner."

It is seen from the evidence of OPW-3 that no proper defence was made by the Insurance Company before the Trial Court. As such, it is not open for the appellant-Insurance Company to improve its case by way of appeal. Accordingly, the impugned Judgment and Award dated 20.06.2024 is confirmed, and the present appeal stands dismissed.

9. As a sequel, the stay, if any, stands vacated.

Pending application(s), if any, also stand closed.

JUDGE

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