

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

MAC.App. No.122 of 2025

1. Smti Uma Debnath, wife of late Ajoy Debnath, age - 41 years.
2. Smti. Anjana Debnath, daughter of late Ajoy Debnath, Age-23 years.
3. Smti. Arpana Debnath, daughter of late Ajoy Debnath, Age-20 years.
4. Sri Abhijit Debnath, son of late Ajoy Debnath. Age-14 years.

All are residents of Briddhinagar, P.S. Ranirbazar, District: West Tripura.
[Appellant No.4 being minor, represented by his mother, Appellant No.1]

.....Appellants

_V_E_R_S_U_S_

1. Sri Ajoy Biswas, son of late Ananda Chandra Biswas, resident of Ramnagar Road No.1, P.O. Ramnagar, P.S. West Agartala, District: West Tripura.
[The owner of the vehicle bearing No. TR-01-AR-0362 TOYOTA Etios vehicle]

.....Respondent

2. The New India Assurance Company Ltd., to be represented by its Divisional Manager, Agartala Divisional Office, 4, Mantri Bari Road, P.O. Agartala, HPO, P.S. West Agartala, District: West Tripura.
[The insurer of the vehicle bearing No. TR-01-AR-0362 TOYOTA Etios vehicle].

.....Respondent-noticee

3. The National Insurance Company Ltd., to be represented by its Divisional Manager, Agartala Divisional Office, 42 Akhaura Road, P.O. Agartala HPO, P.S. West Agartala, District: West Tripura.
[The insurer of the vehicle bearing No. TR-01-B-3919 Auto Rickshaw].

.....Pro-forma respondent noticee

For Appellant(s)	:	Mr. T. Chakraborty, Advocate.
For Respondent(s)	:	None.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

_F_I_N_A_L_O_R_D_E_R_

01.12.2025

Heard.

[2] The present appeal has been filed under Section-173 of the Motor Vehicles Act, 1988 against the judgment and award dated 03.06.2025 passed by the learned Member, Motor Accident Claims Tribunal Court No.4, Agartala, West

Tripura, in connection with T.S. (MAC) 91 of 2019 for enhancement of compensation.

[3] The appellants have prayed for the following reliefs:

“i. Admit this appeal.

ii. Call for the records appertaining to case No. T.S. (MAC) 91 of 2019.

iii. Issue notice upon the respondents and

iv. After hearing may pleased to allow this appeal setting aside the impugned judgment passed by the learned Member, Motor Accident Claims Tribunal, Court No.4, Agartala, in T.S. (MAC) 91 of 2019.

AND

May be pleased to enhance compensation to the tune of Rs.33,55,000/- (Rupees thirty three lacs fifty five thousand) only as compensation in favour of the appellant.”

[4] The appellants are legal heirs of late Ajoy Debnath who died during proceeding of the Case No. T.S. (MAC) 91 of 2019 and accordingly they were substituted in this proceeding. The brief fact of the case is on 10.08.2017 at about 05.30 PM, Ajoy Debnath along with his father Nil Mohan Debnath (now deceased) and elder sister Smt. Sabitri Debnath were proceeding from Agartala for their destination at Khayerpur along the Assam-Agartala Road by boarding an auto rickshaw bearing No. TR-01-B-3919 belongs to the claimant. On the way at about 06.00PM while the said auto rickshaw reached near Panna Hyundai Service Centre, Chanpur, at that moment a TOYOTA Etios vehicle bearing No. TR-01-AR-0362 which was coming from Khayerpur in opposite direction in most rash & negligent manner dashed the auto rickshaw of Ajoy Debnath. As a result said Ajoy Debnath sustained grievous injuries on his head, face, right knee, right hand, chest and other multiple injuries amongst other organs of the body. Thereafter said Ajoy Debnath filed the claim case which was duly contested by the opposite parties. After hearing both the parties the learned tribunal has awarded the case in favour of the present claimants for an amount of Rs. 19,000/- only which is not just and adequate compensation in the eye of law.

[5] Having heard the learned counsel appearing for the parties and after also perusal of the material evidence on record, the learned Court below has observed as under:

“In the result, the present application under section 166 of the M.V. Act, 1988 is allowed with an award of Rs.19,000/- (Nineteen Thousand) only with 8% simple interest per annum from the date of filing of the claim petition i.e., from 24.04.2019.

35. The noticee New India Assurance Co. Ltd is directed to pay the compensation amount to the claimants directly to their individual bank accounts to be furnished by them within a period of 30 (thirty) days from the date of this award in terms of Section 168(3) of the Act.

36. The noticee insurer shall give notice of the deposit of the compensation amount to the claimants and shall also file a compliance report with this Tribunal within 15 days of the deposit.

37. All the claimants shall be equally entitled to the compensation amount in equal share.”

[6] Hence, the present appeal has been preferred by the appellants before this Court for redress.

[7] The learned counsel appearing for the appellants has submitted that the learned Court below has come to an erroneous conclusion that, as there was no specific issue was framed by the Court below regarding the death of Ajoy Debnath, such non-framing of specific issue does not tie up the hands of learned Court below decide the question of death. The learned Court below ought to have considered the submission of the counsel that, in MAC App 03 of 2020 also the tribunal did not recast the issues of death of the injured claimant. The victim Ajoy Debnath and his family belong to remote village of the state and they are illiterate persons. They also belong to the poorer strata of the society. Being illiterate they even do not retained all the bills, medical documents relating to treatment of the victim.

[8] The claimants being illiterate they even do not know the value of post mortem after death. Furthermore, the distance between their residence is far away from the Hospital. It is settled proposition of law that compensation towards the medical expenses incurred is to be assessed looking in to the period of treatment, extent etc. and not to be confined to the extent of the bills, vouchers etc. produced. In the present case the learned Court below unfortunately confined to that extent and thus assessed only Rs. 4000/- by-passing the practical events that it is quite impossible for any to preserve all such documents in a binding manner.

[9] The Motor Vehicles Act is a beneficial legislation intended to place the claimants in the same position as he was before the accident and to compensate him for such losses and damages and that to be interpreted liberally so as to achieve

maximum benefit. But the learned Court below in the present case did not act accordingly and thus assessed the compensation in very lower side which is quite unjust. The loss of earning of the victim for just one month only as there was no medical evidence on record and awarded Rs. 12,000/- only which is quite unjust.

[10] The owner denied and disputed the claim and allegations of rash and negligent driving of his vehicle and put the claimant to strict proof thereof. It has been averred by the opposite parties that at the time of accident his car had all valid documents and was duly insured with the noticee New India Assurance Co. Ltd. and therefore, liability, if any, for payment of compensation rests upon the noticee insurer. The noticee New India Assurance Co. Ltd. also contested the claim by denying its liability. Pleading ignorance about the material averments of the claimant with regard to the accident and resultant injuries to the claimant, the noticee insurer put the claimant to strict proof thereof. Neither admitting nor denying issuance of insurance policy in respect of the offending car, the noticee insurer contended that its liability is subject to conditions of insurance policy of the offending car, if any, and in the event of any breach of any conditions as to documents of vehicle and driving licence, it cannot be held liable and further that the claim is excessive and unreasonable.

[11] Having gone through the overall analysis of the learned Court below, this Court is of the view that the present claimants though amended the claim petition on death of the original claimant Ajoy Debnah and got their names substituted and also amended the claim petition seeking relief of grant of compensation for loss of dependency on the death of their predecessor, no such issue on this aspect was framed or settled earlier. Be that as it may, such non framing of specific issue, in my considered opinion, does not tie up the hands of this Court to decide said question, inasmuch as, the questions put in cross-examination manifestly show that all the parties participated in the inquiry knowing this issue in full, and led evidence in respect of the question.

[12] It is apparent that oral evidence of the PW-1 with regard to negligence of the driver of the offending car is borne by the Ext. 12 charge sheet. Said charge sheet was laid by police after investigation of the case reporting that the accident was result of rash and negligent driving of the offending car by the driver Sri Sanjoy Debnath. Said charge sheet remained unassailed thereby probalising the case of the claimants. This being a proceeding under MV Act for

grant of compensation, it is trite that the charge sheet can be taken into consideration to arrive at a decision on the aspect of rash and negligent driving. There is no rebuttal evidence on record and accordingly, the learned Court below accepts the case of the claimants as to negligence of the driver of the offending car.

[13] Except injury report (Ext.7), medical prescriptions of OPD (Ext. 8 to 8/3) and death certificate of the victim Ajoy Debnath (Ext. 1), the claimants failed to adduce any other medical documents showing the condition of the victim subsequent to his discharge from hospital. We do not have post mortem report of the victim or any medical opinion to throw any light on the cause of death of the victim Ajoy Debnath. It has been observed that the claimants, the appellants herein, totally failed to bring on record any such infirmities to the victim Ajoy Debnath attributable to the injuries he suffered in the accident. Mere loss of a tooth and some simple abrasions and undisplaced fracture, in absence of any medical evidence, cannot be attributed to the cause of death of a person.

[14] There is no dispute that the victim was auto rickshaw driver by profession. Medical documents proved establish that the victim suffered loss of incisor and un-displaced fracture of lateral tibial condyl. No case of disability to the victim is made out. The claimant himself asserted in his claim petition that as auto rickshaw driver his monthly income was Rs.12,000/-. It is probable that an auto rickshaw driver would have income of Rs. 12,000/- per month and in absence of any rebuttal evidence, the same is accepted. No medical evidence is on record to show the period of confinement of the victim in bed.

[15] In view of overall analysis made by the learned Court below and after going through the material evidence in its entirety, this Court is of the view that the assessment of compensation as awarded by the learned Court below is just and proper and needs no interference thus, the findings as arrived at by the learned Court below stands affirmed. Consequently, the present appeal stands dismissed.

[16] As a sequel, miscellaneous applications pending, if any, shall stand closed. Registry is directed to do the needful as per procedure and thereafter, send down the LCRs forthwith.

DR.T. AMARNATH GOUD, J

A. Ghosh

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