

**HIGH COURT OF TRIPURA
AGARTALA**

MAC. App. No.5 of 2026

Sri Biswajit Debnath. S/O. Sri Ajit Kumar Debnath Of Vill- Chaigharia,
Maharani, P.S. R.K.Pur, Udaipur, Gomati, Tripura.

.....**Claimant/ Appellant.**

VERSUS

- 1. Md. Ayoub Ali,** S/O Sri Royaj Uddin Bapari Of West Bank of Amarsagar,
P.O & P.S- R.K.Pur, Udaipur, Gomati, Tripura
(Owner of TR-03-3261 Commander Jeep)
- 2. Md. Joynal Miah,** S/O. Inush Miah of No.2 Fulkumari, P.O & P.S-
R.K.Pur, Udaipur, Gomati, Tripura.
(Driver of TR-03-3261 Commander Jeep).
- 3. United India Insurance Company Ltd.,** Udaipur Branch,
Subhash Road, P.S. R.K.Pur, P.O- R.K Pur, Udaipur, Gomati Tripura
(Insurer of TR-03-3261 Commander Jeep).
- 4. ICICI Lombard General Insurance Company Ltd.**
Kamakhya Tower 3rd Floor, Office No. 305/306, Christian Basti,
G.S.Road, Guwahati-781005.
(Insurer of TR-03-J-8229 Motor Bike)

.....**Opposite parties/ Respondents**

For the Appellant(s)	: Mr. Arjun Acharjee, Advocate Ms. Moon Basu, Advocate Ms. Arshita Dey, Advocate
For the Respondent(s)	: Ms. Ruma Majumder, Advocate Mr. Bibek Banerjee, Advocate
Date of hearing and delivery of Judgment & Order	: 26.03.2026
Whether fit for reporting	: NO.

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

[1] When the case is called, Mr. Arjun Acharjee, learned counsel appears on behalf of the claimant appellant. Ms. Ruma Majumder, learned counsel is present on behalf of respondents No.1 & 2.

[2] This present appeal has been filed under Section 173(1) of the Motor Vehicles Act, 1988, by the appellant for enhancement of the awarded compensation of Rs.3,61,952/- passed by the learned Member, Motor Accident Claims Tribunal No.2, Gomati Judicial District, Udaipur by the order dated 18.08.2025 in case No. T.S. (MAC) 12/2021.

[3] The brief facts of the case of the claimant as enumerated in the claim petition before the learned tribunal are that on 02.06.2020 at about 6.30 hrs while claimant petitioner was coming towards Udaipur from Maharani by riding his motor bike bearing registration No. TR-03-J-8229 and he reached near Satrifung School, then one Commander jeep came from the opposite direction with an abnormal high speed driven in rush and negligent manner dashed the motor bike of petitioner, as result the claimant petitioner received grievous fracture injury in his chest and other bleeding injuries all over his body. It was pleaded that soon after the accident, the injured-claimant petitioner was taken to Gomati District Hospital, Udaipur, by the vehicle of Fire Service and on 02.06.2020 he was admitted at Gomati District Hospital, Udaipur and considering the gravity of injuries on 02.06.2020 he was referred to AGMC & GBP Hospital, Agartala and he was admitted at AGMC and GBP Hospital, Agartala, on 02.06.2020 and was treated up to 04.06.2020 as indoor patient. Again on 04.06.2020, the injured was admitted at ILS Hospital for better treatment and treated up to 08.06.2020 as indoor patient at ILS Hospital, Agartala. It was further contended that at ILS hospital Several X-ray and medical examinations and also ORIF with LCP for radius & ulna done under GA on 06.06.2020. On 08.06.2020, the injured was discharged from ILS Hospital with advise to

attend at Ortho O.P.D after 14 days. Accordingly the injured was attended at Ortho O.P.D., of ILS Hospital, Agartala for long period and he was also under treatment of several private doctors and the injured is continuing his treatment as private patient. It is further pleaded that after prolong treatment the injured did not recover from his injuries and he contended before the learned trial Court that he had already spent about Rs. 3,00,000/- for treatment purpose of the injured including cost of medicine, medical examinations, fees of Doctors, fooding, lodging and transportation etc. and an amount of about Rs. 1,00,000/- would expected to be spent for future treatment of the injured.

[4] On account of such road traffic accident, a complaint was lodged with the O/C of R.K Pur PS, which was registered as R.K. PS Case No. 88 of 2020, under Sections 279/338 of IPC and under Section 177/184/187 of the MV Act. The claimant-petitioner alleged that the accident occurred due to the rash and negligent driving/riding by the driver of vehicle bearing registration No.TR-03-3261 (Commander Jeep). The claimant-petitioner also stated that at the time of accident he was aged about 33 years old and was earning ₹20,000/- per month as a Govt. Servant (Education department) and claimed total compensation to the tune of ₹14,50,000/- for the injuries sustained by him in a Road Traffic Accident.

[5] The Opposite party (in short referred as the OP) Nos. 1 & 2 [respondents No.1 & 2 respectively in the present appeal] being the owner and the driver of the vehicle bearing registration No. TR-03-3261 (Commander Jeep), on receipt of notice appeared and contested the case by way of filing Written statement, denying and disputing the alleged accident and also denied the age, monthly income of the injured claimant petitioner and it is pleaded that on the alleged date of accident dated 02.06.2020 the vehicle bearing No.TR-03-3261(Commander Jeep) was driven by O.P no.2, Joynal Miah having valid and effective driving license bearing no.TR-03 20070015545 and the vehicle was fit for plying. It was further pleaded that

on alleged date of accident the vehicle belonging to O.P no.1, is insured with United Ins. Co. Ltd. vide Policy no. 1309023119P116029065 w.e.f 17.03.2020 till 16.03.2021 covering the date of accident dated 02.06.2020. As such, if any compensation is awarded in favour of the claimant petitioner that may be borne by its insurer i.e by. O.P no.3 United India Ins.Co.Ltd.(respondent no.3 herein).

[6] The OP No. 3 i.e. United Insurance Company Limited being impleaded as insurer of the offending vehicle bearing registration No. TR-03-3261(Commander Jeep), on receipt of notice, appeared and contested the case before the learned trial Court by filing written statement and denied the narration made in the claim petition and 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 it was further pleaded that in case of violation of any terms and conditions of the insurance policy, O.P no.3 would not be held responsible to indemnify the owner. The OP No. 3 further pleaded that O.P no.3, is not liable to pay any compensation, until and unless it is proved that the person on wheel was driving the alleged vehicle, having valid and effective driving license.

[7] The O.P no. 4, ICICI Lombard General Insurance Company Ltd.(respondent No.4 herein) being impleaded as insured of the motor bike bearing registration no.TR-03-J-8229 after receipt of notice appeared and filed Written statement before the learned Court below and also stated that the accident occurred due to rash and negligent driving the driver of the vehicle bearing no. TR-03-3261(Commander Jeep), as such O.P no.4. cannot be held liable to make payment of any compensation in favour of the claimant petitioner.

[8] Thereafter, on the basis of the pleadings the following issues were framed by the learned Court below on 29.08.2022:

(1) Whether Sri Biswajit Debnath, S/O. Sri Ajit Kumar Debnath, sustained injuries in a road traffic accident on 02.06.2020 at about 6.30 hrs hours at Fulkumari near Satraifung School on Udaipur -Amarpur Road, under R.K Pur, PS. due to rash and negligent driving by driver of the motor bike bearing no. TR-03-J8229(motor Bike) and TR-03-3261(Commander Jeep)?

(2) Is the claimant-petitioner is entitled to be compensated under Motor Vehicles Act, 1988. If so, to what extent and who shall be liable to pay such compensation?

[9] During trial, the claimant-petitioner Sri Biswajit Debnath, appellant herein examined himself as PW.1 and he also exhibited some documents on behalf of him which were as follows:

(1) **Exhibit 1/1 to 1/4-** Certified copy of FIR and ejahar.

(2) **Exhibit 2/1 to 2/2-** Certified copy of seizure list sheets.

(3) **Exhibit 3/1 to 3/2-** Certified copy of injury reports

(4) **Exhibit 4 (series)-** Certified copy of final report.

(5) **Exhibit 5 (series)-** Original discharge summary.

(6) **Exhibit 6/1 to 6/4-** Original prescription.

(7) **Exhibit 7/1 to 7/31-** Original cash memos.

(8) **Exhibit 8-** Photocopy of RC of vehicle bearing registration no TR 03 J 8229, on comparing with the original.

(9) **Exhibit 9-** Photocopy of Insurance policy valid from 16-04-2019 to 15-04-2024 of vehicle bearing registration no TR 03 J 8229 comparing with the original.

(10) **Exhibit 10-** Photocopy of driving licence on comparing with the original.

(11) **Exhibit 11-** Original discharge summary in 01 sheet.

(12) Exhibit 12/1 to 12/3 - Original prescriptions in 03 sheets.

(13) Exhibit 13/1 to 13/21- Original cash memos in 21 sheets.

On the other hand O.P no.2, the Joynal Miah driver of the alleged vehicle bearing registration No. TR-03-3261 (Commander Jeep), examined himself as OPW-1 and exhibited some documents which were as follows:-

1) Exhibit-A- Information regarding the vehicle bearing registration No. TR 03 3261(Commander Jeep) from the office of the District Transport Officer, Gomati District, Udaipur.

2) Exhibit- B- Photocopy of driving license bearing No. TR 0320070015545 on comparing with the original.

[10] Learned trial Court below on perusal of all the relevant records and upon hearing the parties, decided the case by its judgment and award dated 18.08.2025 passed in Case No. T.S. (MAC) 12 of 2021 in the following manner:

“.....ORDER.....”

17. In the result, it is hereby ordered that the claimant-petitioner is entitled to get compensation of ₹3,61,952/(Rupees Three lakh sixty one thousand nine hundred fifty two) only. The OP No.3 United India Insurance Co. Ltd., being the owner of the offending motor vehicle bearing Registration No. TR-03-3261 (Commander Jeep) is directed to make the payment of compensation in terms of Sec 168(3) of MV Act.,1988, 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 dated 15.02.2021 till payment/realization of the same.”

[11] Aggrieved by and dissatisfied with the aforesaid judgment and award dated 18.08.2025, passed in Case No. T.S. (MAC) 12 of 2021 by the learned Tribunal, the appellant preferred the instant appeal before this Court seeking the following reliefs:

- “(1) admit the appeal;
- (2) call for the records from the Ld. Tribunal below;
- (3) issue notice upon the respondents; and

(4) after hearing the parties would further be pleased enough to modify the impugned judgment and the awarded compensation of Rs.3,61,952/- (Rupees three lakhs sixty one thousand nine hundred fifty two) passed on 18.08.2025 by the Ld. Member, Motor Accident Claims Tribunal No.2, Gomati Judicial District, Udaipur in T.S. (MAC) 12/2021, to the extent of Rs.14,50,000/- or more, to the extent prayed by the appellants before the Ld. Tribunal otherwise the appellants would be highly prejudiced.....”

[12] Mr. Arjun Acharjee, learned counsel appearing for the appellant submits that the appellant-claimant was a strong and energetic person and at the time of accident he was 33 years of age who used to earned Rs.20,000/- per month as Government servant under Education department and the alleged accident occurred due to rash and negligent driving by the driver of the vehicle. According to learned counsel due to the accident the claimant was deprived from his earning income but, the learned tribunal below failed to appreciate the same and passed the impugned judgment and awarded the compensation of Rs.10,500/- (30 x 350) and Rs.4,900/- (14 x 350) only for loss of income which is illegal in the eye of law. Mr. Acharjee, learned counsel for the appellant further contends that insofar as other compensation heads are concerned including future treatment of the injured appellant, the same are also very meagre and the same should be enhanced by this Court. He, therefore, urges this Court to set aside/modify the impugned order dated 18.08.2025 passed by the learned trial Court in Case No. T.S. (MAC) 12 of 2021.

[13] Heard and perused the evidence on record.

[14] Upon hearing the submissions made at the Bar and on consideration of the materials on record, this Court is of the opinion that though it is contended that the claimant was a government servant drawing Rs.20,000/- per month salary at the time of accident, no document with that regard was produced before the learned trial Court. The appellant claimant was given ample opportunity to produce evidences or to bring to the notice of the learned tribunal if there had been any such documents regarding his

employment but, during trial the claimant failed to produce so. Now, the appellant, by filing this appeal, has raised new issues which were not raised before the learned tribunal. The contention raised by the learned counsel for the appellant that the income of the victim was not taken into consideration and the compensation awarded with regard to other heads also is very meagre, is without merit, since the Tribunal has assessed the income of the victim alongwith other compensation heads and passed the award on the basis of the available records/documents and the surrounding circumstances, which this Court finds to be reasonable and just.

[15] Hence, this present appeal filed by the appellant is liable to be dismissed and the impugned judgment & award dated 18.08.2025, passed in Case No. T.S. (MAC) 12 of 2021 by the learned Tribunal needs to be affirmed and upheld observing that the issues not raised before the learned tribunal below cannot be adjudicated upon by this Court entertaining the new grounds. Accordingly, the same is ordered.

[16] With the above observations and directions, the present appeal stands dismissed and hereby the same is disposed of. The impugned order dated 18.08.2025, passed in Case No. T.S. (MAC) 12 of 2021 by the learned Tribunal is hereby affirmed. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

DR. T. AMARNATH GOUD, J

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