

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

MAC.App. No.42 of 2026

1. The Branch Manager, the Oriental Insurance Company Ltd., a company registered under the Companies Act, 1956, represented by the Assistant Manager cum officer in legal hub/authorized signatory, Agartala, Division Office, HGB Road, (near Sarkar Nursing Home), Agartala, West Tripura.

.....Appellant

_V_E_R_S_U_S_

1. Smti. Saraswati Roy, wife of late Parameshwar Roy.
2. Sri Tapas Roy, son of late Parameshwar Roy, both are residents of Teliamura, P.S. Teliamura, District: Khowai, Tripura.

.....Claimants/respondents

3. Mohan Das, son of Rabi Das, village: Sukantapally, Ward No.3, P.S. Teliamuar, District: Khowai Tripura.

.....Respondent

For Appellant(s) : Mr. Biswanath Majumder, Advocate.

For Respondent(s) : None.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

_F_I_N_A_L_O_R_D_E_R_

20.04.2026

Heard.

[2] The present appeal has been filed under Section-173 of the Motor Vehicles Act, 1988 against the judgment and award dated 07.01.2026 passed by the learned Member, Motor Accident Claims Tribunal Court No.1, West Tripura, Agartala, in connection with T.S. (MAC) 193 of 2021.

[3] The appellant has prayed for the following reliefs:

“i. Admit this appeal.

ii. Issue notice upon the respondents.

iii. Call for records of the case from the Motor Accident Claims Tribunal/Court No.1, Tripura West, Agartala, in case No. T.S. (MAC) 193 of 2021.

iv. Stay the operation of the impugned judgment and award dated 07.01.2026, passed by the Ld. Member Motor Accident Claims Tribunal/Court No.1, Tripura West, Agartala, in case No. T.S. (MAC) 193 of 2021.

v. After hearing the parties at length, be pleased enough to dismiss/set aside/quash the impugned judgment and award dated 07.01.2026, passed by the

Ld. Member Motor (Namely Sri Ashutosh Pandey), Motor Accieent Claims Tribunal/Court No.1, Tripura West, Agartala, in case No. T.S. (MAC) 193 of 2021.”

[4] The case of the claimant respondents herein in brief, is that on 25.02.2021, Parameshwar Roy was coming towards his house from Karailong Chowmuhani on foot maintaining left side of the road and on the way when he reached near a godown at Karailong, suddenly one Yamaha (R15) Motorcycle bearing Model No.YZF155-A, Chassis No.ME1RG5259K0047935 coming with high speed dashed him from back side. Consequently, Parameshwar Roy (now deceased) sustained grievous multiple injuries on his person. After the accident, he was at first shifted to Teliamura hospital with serious condition wherefrom the injured was referred to AGMC & GBP Hospital for better treatment and got him admitted there but during treatment, on 08.03.2021 at about 2 PM he died in the said hospital. It is stated that the accident occurred due to rash and negligent riding of the motorcycle by its rider. Concerning the accident, a police case was registered at Teliamura Police Station vide Teliamura P.S. Case No.29/2021 U/Ss.279/304-A of I.P.C and Sections 184/187 of the M.V. Act. As stated, deceased was 60 years old and as a mason by profession, he used to earn Rs.15,000/-, per month. Finally, they claimed compensation to the tune of Rs.35,35,000/- under different heads.

[5] Having heard the learned counsel appearing for the parties, the learned Court below has observed as under:

“It is, therefore, held that the present claimant petitioners namely; Smti. Saraswati Roy and Sri Tapas Roy are entitled to get compensation of Rs.8,48,960/- (Rupees Eight Lakhs Forty Eight Thousand Nine Hundred Sixty) only with interest @ 7.5% per annum from 08.11.2021 i.e. from the date of filing of the claim petition till the date of actual payment. O.P No.1 i.e. the Oriental Insurance Co. Ltd. shall pay the amount of compensation with interest within 30 days from today in terms of Section 168(3) of M.V. Act, 1988.

Out of the awarded amount of compensation inclusive of interest, the claimant petitioner no.1 (wife of the deceased) will get 60% and the claimant petitioner no.2 will get 40%. Out of the respective share of claimant petitioners no.1 & 2, 50% each of their respective share shall be kept in fixed deposit schemes in their respective names with any Nationalized Bank of their locality for a period of five years and the remaining 50% of their respective share shall be paid to them through their respective bank account. However, liberty is given to both the claimant petitioners to withdraw monthly interest from their respective fixed deposit to meet their day to day expenses. No loan or withdrawal shall be permitted from/against any of the fixed deposit certificates without prior permission of this Tribunal.”

[6] Being dissatisfied with the observes made by the learned Court below, the appellant insurance company has preferred the present appeal.

[7] Mr. B. Majumder, learned counsel appearing for the appellant insurance company has submitted that all the averments made by the claimant-respondents in their claim petition are not trustworthy. They have also denied the age, occupation and monthly income of the deceased. It is further stated that in case of violation of any terms and conditions of the insurance policy, they would not be responsible to indemnify the insured owner. According to the appellant, they were not aware of any criminal case being registered concerning the alleged accident. Moreover, the owner-cum-rider did not inform anything to them about the alleged accident.

[8] It has been submitted that the learned Court below did not apply its judicious mind and with flagrant disregard of law and justice and in a pervasive manner, has imposed the liability of payment of compensation of Rs. 08,48,960/- only upon the appellant Insurance Company and as such, it is not only sustainable and tenable in the eye of the law but of excessive and harsh and as such, it is liable to be dismissed/set aside in limine.

[9] The learned Court below, believe the deposition of P.WS. 1 & 2 who were not eye witnesses and they concealed the incident. But solely basing on their deposition, the learned Court below has awarded the liability of payment of compensation upon the Appellant. In this regard, there is no any whisper in the impugned judgment and award under what manner and what is the basis of such belief. The learned Court below, has been inspired to rely upon the deposition rendered by the witnesses without any corroboration of any other witnesses and what had been stated in their evidence on affidavit of the claimant respondent that has been vividly accepted and appreciated as a real truth by the learned Court below, having ignored the evidence came out through cross examination of themselves. So, the impugned judgment and award shall be modified to that extent.

[10] The alleged accident was not proved by adducing cogent evidence at all, basing on the claim petition, wherein, the claimants purposefully and intentionally described their story in order to get compensation. The entire claim proceeding had been advanced with the erroneous belief of facts and the learned Court below ultimately ahs passed the judgment by awarding the liability of

payment of compensation upon the appellant insurance company having ignored the other relevant materials.

[11] The learned Court below, has failed to appreciate that as per provision of Section 158(6) of the M.V. Act, 1988, it is stated that as soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the Officer-in-charge of the police station shall forward a copy of the same within thirty days from the date of recording information, or as the case may be, on completion of such report to the claim tribunal having jurisdiction and a copy thereof to the concerned insurer and where a copy made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such claim tribunal and Insurer, due to non-compliance of the above statutory provision of the M.V. Act, the impugned judgment is liable to be dismissed.

[12] The learned Court below, has failed to appreciate that, wherein, the facts and circumstances involving therewith in the alleged accident have not been established but on the basis of some decisions has arrived at the conclusion that the claimant respondents are entitled to have compensation at the tune of Rs. 08,48,960/- only including interest to be accrued thereupon to be paid by the appellant insurance company. It is respectfully submitted that all the decisions of the Hon'ble Apex Court, cited by the learned Court below for awarding compensation are not matching and relevant in the instant claim proceeding, since, facts and circumstances of the alleged accident have not been proved and established by any cogent evidence as well as relevant materials.

[13] On perusal of the FIR and Ejahar (Exbt.1 series) it reveals that on 08.03.2021, Sri Tapas Roy (son of the deceased) lodged the ejahar with the O/C, Teliamura PS alleging, inter alia, that on 25.02.2021 in the afternoon at around 5.30 pm, his father Parameshwar Roy (now deceased) while coming towards his house from his house on foot maintaining left side of the road, one unregistered motorcycle suddenly dashed him from back side near LPG Godown at Karailong and knocked him down. The local people then shifted his father to Teliamura Hospital but considering the gravity of injury, his father was referred to G.B Hospital and got him admitted there but during treatment, on 08.03.2021 at 2 PM his father died in the said hospital. It is alleged that due to rash and negligent riding of the motorcycle the accident had occurred. On the basis of that ejahar, a police

case was registered at Teliamura PS vide Teliamura P.S Case No.2021TLM029 under Sections 279/304A of IPC and Sections 184/187 of the M.V. Act. Police, thereafter, investigated the case and submitted a charge-sheet (Exbt.4 series) under Sections 279/304A of IPC and Sections 177/184 of the M.V Act against the rider of the motorcycle namely, Sri Mohan Das.

[14] In the report, I.O has also stated that during investigation it was revealed from the statement of the witnesses, mechanical inspection report, post mortem report and other circumstantial evidences that the accident occurred due to rash and negligent riding of the rider of motorcycle bearing Chassis No.ME1RG5259K0047935 and out of that accident Parameshwar Roy sustained injuries on his person and died subsequently on 08.03.2021 when he was under treatment in AGMC & GBP Hospital. Seizure lists (Exbt.3 series) shows that motorcycle of O.P No.1 was seized by police along with its relevant documents in connection with the aforesaid police case.

[15] Therefore, it is evident that Parameshwar Roy (now deceased) sustained injuries on 25.02.2021 at 5.30 pm in a road traffic accident arising out of the use of the offending motorcycle bearing Chassis No.ME1RG5259K0047935. As such, the claimant-respondents have *prima facie* discharged their liability of proving that Parameshwar Roy died subsequently following the injuries sustained due to accident caused by the negligence of the rider of Yamaha (R15) motorcycle having the Model No.YZF155-A and Chassis No.ME1RG5259K0047935.

[16] It is stated that as a mason by profession, deceased used to earn Rs.15,000/-, per month but the petitioners side failed to adduce any documentary evidence regarding profession and monthly income of the deceased. Thus, a lenient view is to be taken for assessing the monthly income of the petitioner. As per Notification dated 04.08.2023 issued by the Hon'ble High Court of Tripura, the monthly income of skilled workers were shown at Rs.12,000/- per month involving accident which had taken place after 31.12.2015. Since the accident took place on 25.02.2021, the monthly income of the deceased is assessed at Rs.12,000/- @ Rs.400/-, per day.

[17] 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.

[19] As a sequel, miscellaneous applications pending, if any, shall stand closed.

DR.T. AMARNATH GOUD, J

A. Ghosh

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