

**HIGH COURT OF TRIPURA
AGARTALA
MAC. APP. NO.77 OF 2025**

The New India Assurance Co. Ltd., Dharmanagar Micro Office (S31006), Kalibari Road, Dharmanagar, North Tripura. Represented by its Divisional Manager, Agartala Division, 4, Mantribari Road. P.S. West Agartala, District - West Tripura, Pin-799001. (Insurer of vehicle bearing No. No.TR-05-B-1596, Oil Tanker).

.....*Appellant.*

VERSUS

1. *Smt Subala Sinha*, W/o.Late Mahendra Sinha.

2. *Sri Dinu Sinha*, S/o.Late Mahendra Sinha.

3. *Sri Dipak Sinha*, S/o. Late Mahendra Sinha.

All are residence of Ward No.-2, Birchandranagar, Fultali, P.S.- Kailashahar, District Unakoti Tripura, Pin-799280.

.....*Claimant-Respondents.*

4. *Sri Joy Krishna Das*, S/o. Sri Anukul Das, resident of College Road, P.S.- Dharmanagar, District North Tripura. Permanent Address: Village - Uptakhali, P.S. Panisagar, District North Tripura, Pin-799260. (Owner cum driver of the vehicle bearing No. ML-11-1830, Datsun).

4(A) *Mrs. Jesmika Biam*, W/o. Mr. Melo Dhar, resident of Thangrain, Jowai 793150, Meghalaya.

5. *Md. Rajib Mia*, S/o. Aiaz Mia, resident of Durgapur, P.S.- Dharmanagar, District - North Tripura, Dharmanagar, Pin-799250. (Owner of vehicle bearing no. TR-05-B-1596, Oil Tanker).

6. *Md. Askar Ali*, S/o.Abdul Chattar, resident of West Chandrapur, P.S.- Dharmanagar, District - North Tripura, Pin 799250. (Driver of the vehicle bearing No.TR-05-B-1596, Oil Tanker).

7. ICICI Lombard General Insurance Company Ltd., ICICI Lombard House 4/4, Veer Savarkar Marg, near Siddi Vinayak Temple, Prabhadevi Mumbai 400025. (Insurer of vehicle bearing No.ML-11-1830, Datsun).

8. Sri Dipan Sinha, S/o.Late Mahendra Sinha, resident of Vill-Chirakuti, Kintantali, P.S. Kailashahar, District Unakoti Tripura, Pin 799280.

9. Smti Dipali Sinha, D/o.Late Mahendra Sinha, resident of Vill Goldharpur, P.S. Kailashahar, District Unakoti Tripura, Pin-799280.

..... **Respondents.**

For the Appellant(s)	:	Mr. G.S. Das, Advocate. Mr. K. Deb, Advocate.
For the Respondent(s)	:	Mr. Pujan Biswas, Advocate. Mr. Rishiraj Nath, Advocate..

HON'BLE JUSTICE DR. T. AMARNATH GOUD
ORDER

05.01.2026

[1] This appeal has been filed under Section 173 of the M.V. Act, 1988 against the award dated 20.03.2025 passed by the Ld. Motor Accident Claims Tribunal No.2, North Tripura, Dharmanagar in case bearing no. T.S. (MAC) 07 of 2020 to reduce the awarded amount considering the actual age of the deceased as 59 years in place of 49 years and adopting deduction 1/3rd in place of 1/4th and also to adopt the multiplier 9 in place of 13.

[2] The brief fact of the claimants' case is that on 31.05.2019 the deceased, a Constable of GRP was going to Dharmangar along with others by vehicle ML. 11 1830 and while the said vehicle reached at Krishnapur on Dharmangar Panisagar Road (Tilthai) via Batarashi road, suddenly at about 1830 hours dashed with another vehicle TR 05B 1596 (oil tanker), which was parked on wrong side of the road. As a result,

said Constable and others received severe injury and were taken to Dharmanagar District Hospital by Fire Service Personnel of Dharmanagar Fire Station where he was declared dead by doctor. The incident occurred due to rash and negligent driving of the driver of offending vehicle No. ML. 11 1831 (Datsun) and also due to wrong/negligent parking of vehicle No. TR 05B 1596 (Oil Tanker). It was also stated that deceased was 59 years old at the time of accident and was constable of Tripura Police Department and his monthly salary was Rs. 48,175/- and the claimants were dependent upon him. Hence this case.

[3] On perusal of the record and after hearing the learned counsel appearing for both the parties, the learned Court below passed the award in the following manner

“Order /Award

“The OP No. 1A, Smt. Jesmika Biam, the owner of Datsun Vehicle ML-11-1830 and OP no. 05, the New India Assurance Co. Ltd. Dharmanagar, the Insurance company of Oil tanker TR-05-B-1596 are directed to deposit the awarded compensation of Rs. 66,84,032/-, (Rupees Sixty Six Lakhs Eighty Four Thousands and Thirty Two) only within 30 days from today with interest thereon at the rate of 8% per annum with effect from date of filing of the claim application i.e., from 29.02.2020 to till realization of the full.

Distribution of Compensation

As claimant no. 1 is wife of deceased and aged person, I am of the view that she is entitled to get 50% of compensation amount. The claimant no. 02, 03 & OP no. 06 & 07 are entitled to get rest 50% of compensation amount equally.

Protection of the awarded amount

As claimant No. 01 is old, 50% of her compensation amount shall be fixed deposited for 5 years and rest amount of compensation is to be released in her favour in her Bank Account. The whole amount of compensation of claimant no. 2, 3, OP no. 6 & 7 are to be released in their favour in their Bank Account.....”

[4] Being aggrieved and dissatisfied with the order passed in T.S.(MAC) 07 of 2020 dated 20.03.2025, the appellant insurance company has prayed for the following reliefs:-

“a) Admit the appeal.

b) Call for the records from the Motor Accident Claims Tribunal No.2, North Tripura, Dharmanagar of the case bearing no. T.S. (MAC) 07 of 2020.

c) Issue notices to the respondents.

AND

d) After hearing the parties, your Lordships would be pleased to exonerate the liability of the appellant Insurance Co. as there is no rash and negligent driving of the Oil Tanker, otherwise if the wrong parking of the road side of the Oil Tanker is considered as rash and negligent act, then the award is to be reduced from Rs.66,84,032/- to Rs.36,03,624/- as per grounds of the appeal that the age of the deceased was 59 years old and multiplier would be 9 in place of 13 and the deduction would be 1/3rd in place of 1/4th and awarded excess amount beyond the claim of the claim petition."

[5] Heard and perused the evidence on record.

[6] It is seen from Ext. 5, the salary certificate, the deceased used to earn Rs. 48,175/- per month including tax Rs. 208/- as claimed and deposited by claimants. Therefore, it appears that the monthly income of claimants excluding tax is (Rs. 48,175/- -Rs. 208/-)= Rs. 47,967/-.

[7] It is also seen from the salary certificate issued by the competent authority which is taken on record that the deceased was 59 years old at the time of accident and, therefore, multiplier 9 shall apply in view of the Judgment of the Hon'ble Supreme Court in Sarla Verma and others v. Delhi Transport corporation and another, 2009 (6) SCC 121.

[8] Since, the deceased not being bachelor died leaving behind five legal heirs the deduction towards personal expense should be 1/4th. Thus, 1/4th of Rs. 47,967 is Rs. 11,991.75/- i.e. rounded off to Rs. 11,992/- . Hence, loss of income after deduction of personal expense stands at (Rs.47,967/- Rs. 11,992/-)= Rs. 35,975/-. As deceased was a salaried person being Govt. employee and aged between 50 to 60 years, an addition of 15 percent of income is to be made as future income. Fifteen percent of Rs. 35,975/- is Rs. 5,396/-. Thus, total loss of monthly income stands (Rs. Rs.35,975/-+ Rs.5,396/-)= Rs.41,371/-. Therefore, the loss of income of the deceased applying multiplier 9

would stand at (Rs. 41,371 x 12x 9)= Rs.44,68,068/- As the deceased died leaving behind five legal heirs being wife, sons and daughter, each are entitled to Rs. 40,000/- as consortium. Thus, total consortium stands Rs.40,000/- x 5= Rs.2,00,000/-. The legal heirs are also entitled to Rs. 15,000/- for loss of estate and Rs. 15,000/- as funeral expenses. Thus, total compensation stands at (Rs. 44,68,068 + Rs. 2,00,000/- +Rs.15,000/- +Rs. 15,000/-)= **Rs. 46,98,068/-**.

[9] Accordingly, the legal heirs of the deceased would be entitled compensation as indicated above along with the statutory benefits as awarded by the learned tribunal below.

[10] The awarded amount shall be deposited by the insurance company within a period of one month from today, if not deposited. However, it is made clear that on such deposit, the legal heirs are at liberty to withdraw the same unconditionally as per procedure.

[11] In the light of the above, the present appeal stands allowed to the extent as indicated above. As a sequel, miscellaneous application pending, if any, shall stand closed.

DR. T. AMARNATH GOUD, J

Paritosh

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