

**HIGH COURT OF TRIPURA
AGARTALA**

Mac. App No.91/2025

National Insurance Co. Ltd. Represented by the Branch Manager, National Insurance Company Limited Agartala, 42 Akhaura Road, Agartala, West Tripura-799001(Insurer of the offending vehicle No.TRL-3408(Truck)

.....***Appellant***

VERSUS

1. Smti Uma Rani Barman W/o. Lt. Nimai Chand Das, Of. Chandanmura, near Chandanmura High School, PS-Sonamura, District-Sepahijala.

2. Shri Gourab Das, S/o. Lt. Nimai Chand Das, Of- Chandanmura, near Chandanmura High School, P.O. & PS-Sonamura, District-Sepahijala.

3. Miss Debalina Das (Being minor Miss. Debalina Das is being represented by her natural Guardian i.e. her mother Smti Uma Rani Barman) D/O. Lt. Nimai Chand Das. Of Chandanmura, near. Chandanmura High School. PS-Sonamura, District-Sepahijala

.....***Claimant Respondents***

4. Sri Tapash Kumar Deb S/O. Lt. Tarini Mohan Deb, Of- Shiv Nagar, PO-Dhaleshwar PS- East Agartala, District West Tripura. Present address- Kumari tilla Quarter complex, Quarter No.Type-III, 59, New Building. PO-Kunjaban, PS-NCC, West Tripura. PIN-799006. (Owner of the offending vehicle bearing No.TRL-3408(Truck)

5. Sri Radha Ballab Datta , S/o. Lt. Premamoy Datta, of B.C. Nagar, PS-Belonia, District- South Tripura. (Driver of the offending vehicle bearing No.TRL-3408(Truck).

.....***Respondents.***

For Appellant(s)	:	Ms. Rajasree Purkayastha, Advocate
For Respondent(s)	:	Mr. P. Saha, Advocate. Mr. S. Datta, Advocate.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

ORDER

08.01.2026

[1] Heard learned counsel appearing for both the parties.

[2] This appeal has been filed under Section 173(1) of Motor Vehicles Act, 1988 against the Judgment and Award dated 22.07.2024 passed by the learned Member, Motor Accident Claims Tribunal, No.5 West Tripura, Agartala 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 quash /set aside the impugned award dated 22.07.2024 passed by the Ld. Motor Accidents Claims Tribunal No.5, Sri P.P.Paul, West Tripura, Agartala in T.S. (MAC) 56 of 2022 whereby the Ld. Tribunal below has most illegally and arbitrarily awarded compensation of Rs.57,40,176/- (Rupees fifty seven lakhs forty thousand one hundred seventy six only) with interest @ 7% per annum from the date of filing of the claim application i.e. from 22.02.2022 till the date of payment to the Claimant Respondents to be paid by the O.P. No.3 Appellant, the insurer of the offending vehicle No.TRL-3408(Truck), within one month from the date of the judgment; and further be pleased enough to stay the operation of the impugned award till final disposal of the appeal, otherwise the appellant would be highly prejudiced.

[3] Ms. Rajasree Purkayastha, learned counsel appearing for the appellant-Insurance Company submits before this Court that the learned Tribunal below most illegally and arbitrarily awarded compensation of Rs. 57,40,176/- with interest @7% per annum. She further submits before this Court that as per Hon'ble Apex Court's Judgment titled as ***National Insurance Company Limited Versus Pranay Sethi & Others***, reported in (2017) 16 SCC 680 wherein it is specifically mentioned that the income shall be the actual salary less tax, but the learned Tribunal below failed to consider the same. Thus, she prayed to remand back the matter before the concerned Tribunal.

[4] On the other hand, Mr. P. Saha, learned counsel appearing for the respondents submits before this Court no evidences

has been given by the learned counsel of the appellant with regard to her argument. Thus, he prays to dismiss the case.

[5] Heard and perused the evidences on record.

[6] It appears to this Court that the appeal is filed on two grounds i.e. (i) contributory negligence and (ii) Intermis of the Judgment titled as ***National Insurance Company Limited Versus Pranay Sethi & Others***, reported in (2017) 16 SCC 680, the relevant portion of the same is quoted herein below :-

“59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.”

wherein it is specifically mentioned that actual salary should be read as actual salary less tax.

[7] Since, the learned Tribunal has not given any finding with regard to the deduction of tax in para “30” of its judgment in the light of the Judgment of the Hon’ble Apex Court as stated *supra*, this Court, is of the opinion that once the matter deals with salary and deduction of tax, it is reasonably construed that it is income tax and therefore, the income needs to be considered by deducting the income tax.

[8] In view of the same, the matter needs to be remanded back to the learned Tribunal below to give an opportunity to both sides for placing certain tax deduction details on the day it existed and to make their respective submissions. Calculation memo to that effect be also submitted by the party concerned to decide the matter in accordance with law. The said exercise shall be completed within a period of 06 months from the date of receipt of the copy of this order.

[9] Insofar as contributory negligence is concerned since, the matter has already been dealt on merits after hearing both sides, this Court is not inclined to entertain the same and accordingly, the said argument stands rejected.

[10] With the above observation and direction, the present appeal is remanded back and accordingly, the same is disposed of. As a sequel, miscellaneous application(s) pending, if any, shall also stand closed.

Send down the LCRs.

DR. T. AMARNATH GOUD, J



Paritosh

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