

**HIGH COURT OF TRIPURA  
AGARTALA**

**RSA No.27/2025**

Sri Tapan Dey, S/O. Late Rasaraj Dey, R/O. A.D. Nagar, Road No. 9, P.O. & P.S.-A.D. Nagar, P.S.-West Agartala, District-West Tripura.  
..... Appellant(s).

**V E R S U S**

1. The State of Tripura, Represented by the Secretary, Urban Development Department, Govt. of Tripura, P.O.-Kunjaban, New Secretariat Complex, District-West Tripura.
2. The Secretary, Public Works Department, Govt. of Tripura, New Secretariat Complex, P.O.-Kunjaban, District-West Tripura.
3. The Director, Urban Development Department, Govt. of Tripura, New Secretariat Complex, P.O.-Kunjaban, District-West Tripura.
4. The Chief Executive Officer, Agartala Municipal Council City Centre, Paradise Chowmuhani P.O.-Agartala, P.S.-West Agartala, District-West Tripura.
5. The Addl. Chief Executive Officer, Agartala Municipal Council City Centre, Paradise Chowmuhani P.O.-Agartala, P.S.-West Agartala, District-West Tripura.
6. The Executive Officer, South Zonal Office, Agartala Municipal Council, Badharghat, A.D. Nagar, P.O.-A.D. Nagar, P.S.-West Agartala, District-West Tripura.
7. The Assistant Engineer, Drinking Water and Sanitation(DWS), Sub Division No. II, Milan Sangha, Agartala, P.O.-A.D. Nagar, P.S.-A.D. Nagar, District-West Tripura.
8. Sri Biswanath Dey, S/O. Late Rasaraj Dey, Resident of A.D. Nagar, Road No.-9 P.S. & P.O.-A.D. Nagar, District-West Tripura.  
.....Respondent(s).

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| For Appellant(s)  | : Mr. Debalay Bhattacharya, Sr. Advocate,<br>Mr. Samar Das, Advocate,<br>Mr. Agniva Chakraborty, Advocate. |
| For Respondent(s) | : Mr. Pradyumna Gautam, Sr. G.A.,<br>Mr. Arijit Bhaumik, Advocate,<br>Mr. Haradhan Sarkar, Advocate.       |

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**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO**

**Order**

**07/01/2026**

Heard Mr. Debalay Bhattacharya, learned senior counsel assisted  
by Mr. Samar Das, counsel for the appellant and Mr. Pradyumna Gautam,

Senior Government Advocate, Mr. Arit Bhaumik and Mr. Haradhan Sarkar, counsel appearing for the respondents.

2. The appellant had filed a suit against the respondents seeking compensation of Rs.5,00,000/- (Rupees five lakhs) for deficiency in service and for damaging the life of the appellant by disconnection of water supply line of the appellant and also for creating nuisance, unhygienic health hazard to the appellant. He sought a direction to the respondents for arranging reconnection of the water supply line to his house.

3. After contest, the trial Court granted compensation of Rs.1,00,000/- (Rupees one lakh) to the appellant to be paid by the defendant No.8 in the suit along with interest @ 6% per annum from the date of filing of the suit till the date of realization.

4. Challenging the same, the defendant No.8 preferred an appeal being Money Appeal No.01 of 2021 before the Additional District Judge, West Tripura, Agartala (Court No.2).

5. The lower Appellate Court reversed the judgment of the trial Court insofar as the trial Court directed payment of compensation of Rs.1(one) lakh to the appellant by the defendant No.8.

6. The lower Appellate Court noted the contentions of both sides, extracted two paragraphs of the trial Court judgment and recorded the following vague reasons:-

"10. Civil suits are decided on the basis of preponderance of probabilities. In the case in hand, considering the evidence on record the case of the plaintiff is much more probable than that of the defendant. There is another established principle of law which is, "on a finding of fact the appellate court cannot substitute its view just because

another view is possible." Before substituting such a view, the appellate court has to set aside the view taken by the trial court holding the same as perverse and wrong. Hence, I do not find any perversity or illegality in the judgment, decree and order of learned court below except finding as to the compensation/damage of Rs.1,00,000/- to be paid by the appellant-defendant NO.8 to the respondent No.8-plaintiff.

The basic principle in tort regarding damage is that a party can claim damages on the basis of losses or harm suffered due to action or omission of any other party and the Court assess damages on various factors including negligency, defamation or wrongful acts and breach of statutory duties or obligation.

The Court also assess actual loss, pain and suffering, punitive damages, *restitutio in integrum* and compensatory damage by delving into nature and extent of damage, culpability of defendant and claimant contribution.

In the instant case, though damage has been awarded but the Ld. Court below failed to appreciate the evidence as to the imposing compensation of Rs.1,00,000/-."

7. There is no discussion in the judgment about the evidence adduced by both the parties, which is required to be reassessed since the lower Appellate Court is also a Court of fact. Without discussing the evidence of the parties, it is not open to the lower Appellate Court to say that he did not find any perversity or illegality in the judgment, except the finding as to the payment of compensation of Rs.1,00,000/- to be paid to the appellant by the defendant No.8.
8. Therefore, the impugned judgment is set aside and the matter is remanded to the lower Appellate Court for fresh consideration. The lower Appellate Court is directed to follow Order XLI Rule 31 of CPC, consider the

pleadings and the evidence adduced by the parties and the legal principles which are to be applied and then decide the Appeal in accordance with law.

9. This exercise shall be completed by **30.04.2026**. No costs.

10. The instant Second Appeal is disposed of in view of above terms.

Pending application(s), if any, shall stand disposed of.

**(M.S. RAMACHANDRA RAO, CJ)**



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