

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App. No.92 of 2025

National Insurance Company Limited
Represented by its Divisional Manager,
Agartala Division Office, Agartala,
42 Akhaura Road, Agartala,
P.S. West Agartala, District- West Tripura,
(Insurer of the vehicle No.TR-03-3173 Commander Jeep)

.....Appellant

VERSUS

1) **Ashis Das**
S/O Late Narayan Das
Present Address: C/O Dinesh Debnath,
Lankamura, Near Bharat Ratna Club,
P.S.- West Agartala,
District- West Tripura
Permanent Address: Village- Jalaya,
Matu Mog Para, P.S.- Korbook,
District- South Tripura.

.....Claimant Respondent

2) **Sri Mimu Miah,**
S/O Late Rangshu Miah Mirdha,
Of Khilpara, Near Khilpara Bazar,
P.S.- Radhakishorepur, District- Gomati Tripura.
(Owner of the vehicle No.TR-03-3173 Commander Jeep)

.....Owner Respondent

For Appellant(s)	: Mr. Shubhajit Chakraborty, Advocate. Mr. Samar Das, Advocate.
For Respondent(s)	: Mr. Samarjit Bhattachrjee, Advocate Mr. Bijan Saha, Advocate Ms. Joysree Debnath, Advocate

**C.O.(F.A.) 01 of 2026
in MAC App.No.92 of 2025**

Shri Ashis Das, S/o. Late Narayan Das,
Permanent address: Village- Jalaya,
Matu Mog Para, P.S.- Korbook,
District- South Tripura,
Presently residing at - C/o- Dinesh Debnath,

Lankamura, Near Bharat Ratna Club,
P.S.- West Agartala, District- West Tripura.
..... **The Cross Objector (Claimant)**

VERSUS

1. Sri Mimu Miah, S/o- Late Rangshu Miah Mirdha,
Khilpara, Near Khilpara Bazar, P.S- Radhakishorepur,
District- Gomati, (Owner of Commander Jeep No. TR-
03-3173).

2. The Divisional Manager, National Insurance Co.
Ltd., Agartala Divisional Office, Agartala, 42, Akhaura
Road, P.S.-West Agartala, Dist.- West Tripura. (Insurer
of Commander Jeep No. TR-03-3173)

.....**Respondents**

For Cross-Objector(s)	: Mr. Samarjit Bhattacharjee, Advocate Mr. Bijan Saha, Advocate Ms. Joysree Debnath, Advocate
For Respondent(s)	: Mr. Shubhajit Chakraborty, Advocate Mr. Samar Das, Advocate
Date of hearing and delivery of judgment and order	: 16.02.2026
Whether fit for reporting	: YES/NO

HON’BLE JUSTICE DR. T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

[1] The present appeal being MAC App.No.92 of 2025 is filed seeking the following reliefs:

- “i) Admit this Appeal,
- ii) Call for records relevant to the subject matter of the case from the Learned Motor Accident Claims Tribunal No.-4, West Tripura, Agartala, in Case No. T.S. (MAC) 40 of 2023;
- iii) After hearing the parties be pleased enough to set aside/quash and modify the impugned judgment and award dated 29.03.2025, passed by the Learned Motor Accident Claims Tribunal No.-4, West Tripura, Agartala, in Case No. T.S. (MAC) 40 of 2023, and may be

kind enough to pass an appropriate order in terms of the law laid down by the Hon'ble Apex Court by passing the various judgments in this regard, for the fair ends of justice.

iv) Pending disposal of the present appeal, stay the operation of the impugned judgment and award dated 29.03.2025, passed by the Learned Motor Accident Claims Tribunal No.- 4, West Tripura, Agartala, in Case No. T.S (MAC) 40 of 2023;

v) Pass any other order/orders as this Hon'ble High Court may deem fit and proper.
.....”

[2] On the other hand, the present cross-objection being C.O.(F.A.) 1 of 2026 in MAC App.No.92 of 2025 has been preferred by the cross-objector seeking the following reliefs:

- “a) Admit the instant Cross Objection;
- b) Issue notice upon the Respondents;
- c) Call for the records of T.S. (MAC) 40 of 2023 from the file of the L'd Member, Motor Accident Claims Tribunal No.4, West Tripura, Agartala,
- d) Hear the Cross Objection, filed under Order-41 Rule-22 of CPC read with Section 173 of the Motor Vehicles Act, 1988, against MAC Appeal No. 92 of 2025, filed by the National Insurance Company Ltd., challenging the Award, dated, 29.03.2025, passed in TS (MAC) 40 of 2023, by the L'd Member, Motor Accident Claims Tribunal No.4, West Tripura, Agartala, and after hearing pass necessary Order for enhancement of the awarded amount of compensation

AND

The Hon'ble High Court may also pass any other or further order/orders as may be considered fit and proper”

[3] Since both the appeal and cross-objection arise from the same judgment and award and the similar question of fact and law are involved, accordingly, both the appeal and cross-objection are heard and taken up together for adjudication and disposal in a common order.

[4] The brief facts of the case as enumerated before the tribunal, is that Sri Asish Das, the injured himself (cross-objector claimant herein) filed an application under Section 166 of the Motor Vehicles Act before the Court below praying for grant of compensation to the tune of 30 lakh due to injuries suffered by him in road traffic accident. His case was that on 07.12.2022 he was proceeding from his house by riding the motor cycle No. TR-8-E-8509 and at about 11-00 a.m. when he reached Rangachara on the Debdaru-Kowaifug road under Baikhora police station of the district of South Tripura, the offending Commander Jeep No. TR-03-3173 being

driven in a rash and negligent manner at high speed from opposite direction hit the motor cycle of the claimant causing grievous injuries including fracture to his right leg to him. He was taken to Jolaibari hospital initially, but considering seriousness of his injuries, he was referred to the District Hospital, Udaipur. But, the attending doctors of the District hospital referred the claimant to the AGMC & GBP hospital, Agartala where he was hospitalised from 07.12.2022 to 11.01.2023 and multiple operation were also done to his injuries. After discharge from hospital also the claimant remained bed ridden due to the injuries he suffered. It was contended before the learned tribunal that the claimant was a plumber and contractor by profession and he used to earn monthly income of Rs.20,000/- to Rs.25,000/-, but due to the injuries suffered by him, he became 100% disabled and has lost his total earning capacity.

[5] The Opposite Party (OP) No.1 i.e. the owner of the offending vehicle filed his written statement denying the claim and the allegations made by the claimant. However, admitting ownership of the offending vehicle, the OP No.1 pleaded that the offending vehicle having all valid documents was duly insured with the OP National Insurance Company Ltd. covering the period from 11.03.2017 to 10.03.2018 and that his driver was also driving the vehicle with valid driving licence.

[6] The OP No.2 i.e. the insurer of the offending vehicle(appellant herein) also contested the claim and filed counter statement disputing all the material averments of the claimants and put him to strict proof thereof. It was pleaded by the insurer before the learned tribunal that its liability is subject to availability of valid insurance policy and its terms and conditions and violation of any condition thereof will entitle it to avoid the liability.

[7] Thereafter, learned Court below upon hearing the parties and on perusal of the material evidence on record, decided the case by its judgment and award dated 29.03.2025 passed in TS(MAC) 40 of 2023. The relevant contents of the said judgment and award are extracted as under:

“.....ORDER

24. In the result, the application under section 166 of the MV. Act, 1988 filed by the claimant is allowed with an award of 7,82,000/-(Seven Lakh Eighty-Two Thousand) only

with 8% simple interest per annum from the date of filing of the claim petition i.e., from 09.03.2023.

25. The OP National Insurance Co. Ltd is directed to pay the compensation amount to the claimant Payment shall be made within a period of 30 (thirty) days from the date of this award in terms of Section 168(3) of the Act.

26. The OP insurer shall give notice of the deposit of the compensation amount to the claimant and shall also file a compliance report with this Tribunal within 15 days of the deposit.

27. To ensure protection of the compensation, it is directed that 50% of the compensation amount shall be directly paid to the claimant by transfer to his individual bank account and the rest amount shall be invested in his name in fixed deposit for a period of 5 years in any nationalised bank, preferably the UCO Bank, District Court Branch, Agartala with auto renewal facility.....”

[8] Heard learned counsel appearing for the respective parties and perused the record.

[9] On perusal of record, it appears that though the claimant asserted before the tribunal that he was a contractor as well as a plumber, he failed to prove any contractor licence in support of his claim. The claimant also failed to produce any document showing his monthly income. This Court is of the considered opinion that in the light of the Notification dated 4th August, 2023 issued by the Registry of the High Court of Tripura, since the claimant was plumber (skilled worker) and no proof of income of the injured issued by the competent authority is submitted, notional wage for determination of compensation would be Rs.12,000/- per month instead of Rs.10,000/- per month as determined by the learned tribunal below.

[10] It is also seen from record that as per the Aadhar card proved as Ext.7, year of birth of the claimant is 1980 and on the basis of that, his age on the date of accident comes out to be about 42 years. But, the learned tribunal below while determining the age of the injured, relied on the medical documents holding that the age of the claimant at the time of accident was 48 year and applied multiplier 13 in determining the award under the head of loss of income. Insofar as, the disability of the injured is concerned, as per disability certificate (Ext.5), the injured has 50% temporary disability and the certificate shall be valid till 20.08.2028. The opinion of the doctor in the deposition of P.W.2 before the tribunal, also indicates that the injured had 50% temporary disability. But, the Court below has assessed the

functional disability of the injured as 30% without any basis. This court is of the considered opinion that since it is evident from the record i.e. the disability certificate issued to the injured that he has 50% temporary disability for 5 years, the observation made the learned Tribunal that the injured has 30% functional disability needs to be modified and resultantly, the same is considered as 50% temporary disability for 5 years. Since, this Court is considering the case of the injured on the basis of the said disability certificate indicating 50% temporary disability for 5 years, any multiplier under any provision of law for assessment of compensation is not applicable to the present case. However, it will be open for the clamant to file fresh claim petition before the concerned authority on expiry of the said disability certificate in accordance with law.

[11] During the course of argument, Mr. Samarjit Bhattacharjee, learned counsel for the claimant argued before this Court that the claimant was above 40 years old on the date of accident. He further contends that since the injured is a single unmarried person and because of this disability his scope for marriage also reduced, the learned Court below observed that a notional amount of Rs.50,000/- be quantified under the head of loss of amenities (and/or loss of prospects of marriage) but, while totaling the award under different heads, learned Court below has committed error by not adding the said amount of Rs.50,000/-. This Court is of the view that the said amount of Rs.50,000/- be also added to the compensation towards loss of prospects of marriage.

[12] With the above observations and discussions, the impugned award passed by the learned Tribunal below is re-calculated as under:

RE-CALCULATION

Monthly income of the injured at Rs.12,000/-.

Addition of 25% future prospect thereon would make the loss of income per annum to Rs.1,80,000/- [(Rs.12,000/- X 12 = Rs.1,44,000/-) + (Rs.1,44,000 X 25%= Rs.36,000/-)]

Thereafter, considering 50% for the temporary disability would make future loss of income at Rs.90,000/- per annum. Now, since the disability certificate(Ext.5) for the injured is valid for 5 years, the future loss of income of the claimant for the period of 5 years, comes to [Rs.90,000/- X 5]= **Rs.4,50,000/-**.

Therefore, considering the future loss of earning on account of temporary disability at Rs.4,50,000/- alongwith other different heads, the total award that the claimant would get is summerised in the following tabular form:

Sl. No.	Heads	Amount Awarded
1.	Loss of future earnings on account of temporary disability	Rs.4,50,000/-.
2.	Expenses relating to treatment including medicines and hospitalization	Rs.16,620/-
3.	Expenses relating to transportation	Rs.10,000/-
4.	Expenses towards cost of attendants, nourishing food, and miscellaneous expenditure	Rs. 20,000/-
5.	Future medical expenses	Rs.50,000/-
6.	Loss of amenities (and/or loss of prospects of marriage)	Rs.50,000/-
7.	Damages for pain & sufferings	Rs.1,00,000/-
	Total	Rs.6,96,620/-

[13] Thus, the re-calculated total award to be received by the clamant from the appellant insurance company would be Rs.6,96,620/-, rounded off to **Rs.6,97,000/-(Rupees Six Lakh Ninety Seven Thousand only)**. It is made clear that insofar as other aspects of the impugned award by the learned Court below dated 29.03.2025 passed in TS(MAC) 40 of 2023 are concerned, the same need no interference and the same shall remain unaltered.

[14] The compensation in the present case has been assessed considering 50% temporary disability on the basis of the disability certificate presently valid for 5 years. The awarded amount is therefore, directed to be released to the claimant. However, the claimant shall produce a fresh disability certificate on expiry of the

present disability certificate, if so required, for the limited purpose on confirming the continuance of disability due to the said alleged accident. Non-production of such certificate shall not affect the compensation already paid, unless/otherwise ordered by the Tribunal/Court/concerned authority in accordance with law.

[15] Accordingly, the award passed by the learned Tribunal is modified to the extent as indicated above. The instant appeal filed by the appellant insurance-company and the cross-objection filed by the cross-objector claimant are hereby disposed of. The modified awarded amount of **Rs.6,97,000/-** shall be deposited by the insurance company within a period of one month from today, if not already deposited.

[16] As a sequel, miscellaneous application(s) pending if any, shall also stand closed.

DR. T. AMARNATH GOUD, J.



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