

**HIGH COURT OF TRIPURA
AGARTALA**

MAC. App. No.131 of 2025

The Manager, Liberty General Insurance Limited
*Agartala Branch, 1st Floor, Building No.543,
Math Chowmuhan, College Road, P.O. Agartala, PIN-799004,
P.S. West Agartala, District- West Tripura,
(Insurer of vehicle No. TR-03-G-1616 Bolero Pick Up)*

.....Appellant

VERSES

1) Nur Jahan Bibi
*wife of late Gani Miah
Resident of Lebacharra, Jatanbari,
P.S.- Natun Bazar, District- Gomati Tripura.*

.....Claimant Respondent

2) Md. Alfaz Miah,
*son of Ali Miah
of Natun Bazar, P.S. Natun Bazar,
Amarpur, District- Gomati Tripura
(Owner of vehicle No. TR-03-G-1616 Bolero Pick Up)*

.....Owner Respondent

3) Md. Jamal Hossain @ Jamal Miah
*son of Jahar Islam,
Of North Ekchari, Lebacharra, Jatanbari,
P.S. Natun Bazar, District- Gomati Tripura.
(Driver of vehicle No. TR-03-G-1616 Bolero Pick Up)*

.....Driver Respondent

For the Appellant(s)	: Mr. Shubhajit Chakraborty, Advocate Mr. Samar Das, Advocate Ms. Baisakhi Chakraborty, Advocate
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For the Respondent(s)	: Mr. D.K. Das Chawdhury, Advocate Mr. Anup Baidya, Advocate
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Date of hearing and delivery of Judgment & Order	: 16.02.2026
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Whether fit for reporting	: NO.
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HON'BLE JUSTICE DR. T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)

[1] This present appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, by the appellant, insurance company, challenging the judgement and award dated 23.06.2025, passed by the learned Motor Accident Claims Tribunal No.-2, Gomati Tripura, Udaipur in Case No. T.S. (MAC) 32 of 2021.

[2] The brief facts of the case of the claimant as enumerated in the claim petition before the learned tribunal are that on 20-11-2020 at about 6.30 am the deceased Swarup Hossain was going to Korbook Bazar by foot with cows and when he reached Pancharam Para at that time one Bolero Pick Up truck bearing no. TR-03-G-1616 going to Korbook Bazar from Jatanbari side dashed him from back side. Soon after the accident, he was brought to Natun Bazar Hospital where from he was refereed to Gomati District Hospital, therefrom, he was again referred to Agartala Medical College and GBP Hospital, where the attending doctors declared him dead.

[3] A complaint was registered with the O/C of Karbook PS which was registered vide Karbook PS Case No. 20 of 2020 under Sections 279/304(A) of IPC after the said accident. It was pleaded that at the time of accident deceased Swarup Hossain was a healthy young man of 24 years of age and was earning Rs.12,000/- per month as a labourer. It was alleged by the claimant-petitioner that the accident occurred due to the rash and negligent driving by the driver of the vehicle bearing registration no. TR-03G-1616 Bolero Pick-up). Under the above facts and circumstances the claimant-petitioner prayed before the learned tribunal for granting compensation of Rs.20,00,000/- only.

[4] The Opposite Party (OP) No. 1 being the owner of the alleged vehicle bearing registration no. TR-03G-1616(Bolero Pick-up Truck) on receipt of notice appeared and contested the case before the learned tribunal

by way of filing written statement, denying and disputing the alleged accident and also denied the age, monthly income of the deceased and it was further submitted that on the alleged date of accident dated 20-11-2020, the alleged vehicle was driven by O.P no.2 having valid and effective driving license bearing no. TR-0320170050586 issued by the competent authority and also the alleged vehicle was duly insured with Liberty General Insurance Co. Ltd. Lastly it was submitted that if there be any liability of compensation imposed upon the O.P no.1 i.e. owner of the alleged vehicle bearing no. TR-03G-1616(Bolero Pick-up Truck) the same would be borne by its insurer as on alleged date of accident dated 20-11-2020, his vehicle was insured with The Manager, Liberty General Insurance Co. Ltd. vide policy bearing no. 201330130120700046800000., valid upto to 08-06-2021.

[5] The OP No. 3 i.e. the Manager, Liberty General Insurance Co. Ltd. being impleaded as the insurer of the alleged vehicle bearing registration no. TR-03G-1616(Bolero Pick-up Truck), after receipt of notice in connection with the case appeared before the learned tribunal and filed their written statement denying the averments made in the claim petition and also alleged that at no point of time, the driver nor the owner of the alleged offending vehicle bearing registration no. TR-03G-1616(Bolero Pick-up Truck) informed O.P no.3 about the alleged accident, in that case no mandate of MV Act was followed. It was also pleaded that the owner of the alleged vehicle must produce the Registration book, permit, Fitness Certificate and the Driving license to prove his case. It was also pleaded that the insurance company cannot be held liable for making payment of compensation if any awarded, until and unless it is proved that the person on the wheel, on the date of accident, was having valid and effective driving license to drive the vehicle and also the vehicle was road worthy to ply.

[6] Upon hearing the parties, the learned tribunal by its judgment and award dated 23.06.2025, passed in Case No. T.S. (MAC) 32 of 2021, decided the case in the following manner:

“.....ORDER

20. In the result, it is hereby ordered that the claimant petitioner Smt. Nur Jahan Bibi, is entitled to get compensation of ₹18,91,400/- (Rupees Eighteen lacs ninety one thousand four hundred) only. The OP No.3 i.e. The Liberty General Insurance Company Ltd., being the Insurer of the offending motor car bearing Registration No. TR-03G-1616(Bolero Pick-up Truck)is directed to make the payment of compensation in terms of Sec 168(3) of MV Act., 1988, to the claimant-petitioner within 30 (thirty) days from today along with interest thereon @ 7.5% per annum from the date of filing of claim petition dated 08-04-2021 till payment/realization of the same. The claimant petitioner is entitled to the said amount of compensation.”

[7] Aggrieved by and dissatisfied with the aforesaid judgment and award dated 23.06.2025, passed in Case No. T.S. (MAC) 32 of 2021 by the learned Tribunal, the appellant preferred the instant appeal before this Court 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.-2, Gomati Tripura, Udaipur, in Case No. T.S. (MAC) 32 of 2021;
- iii) After hearing the parties be pleased enough to set aside/quash and modify the impugned judgment and award dated 23.06 2025, passed by the Learned Motor Accident Claims Tribunal No.-2, Gomati Tripura, Udaipur, in Case No. T.S. (MAC) 32 of 2021, 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 23.06.2025, passed by the Learned Motor Accident Claims Tribunal No.-2, Gomati Tripura, Udaipur, in Case No. T.S. (MAC) 32 of 2021;

[8] Mr. Shubhajit Chakraborty, learned counsel appearing for the appellant insurance company submits that as per police investigation chargesheet/Final Report it is clearly mentioned that as on alleged date of accident victim boarded the vehicle bearing regn. No. TR-03-G-1616 (Bolero Pick Up) accompanied by 3 (three) other persons for selling some cows which is completely contradictory to the complaint/FIR and during trial, learned Tribunal completely ignored this contradiction while deciding

the case and came to a conclusion that due to only the rash and negligent driving of driver the accident occurred, which is ex-facie illegal, and thus the erroneous findings as arrived by learned Tribunal by passing the impugned judgment and award needs to be set aside.

[9] Per contra, Mr. D.K. Das Chawdhury, learned counsel for the claimant respondent contends that the pleadings/evidences which were not submitted before the learned tribunal by the appellant, should not be entertained by this Court. He further submits that the fair reading of the judgment does not indicate that steps were initiated by the insurance company to place on record the pleadings/evidences before the trial Court which he has contended newly by filing the present appeal. Now, strangely, learned counsel for the appellant insurance company has advanced before this Court with new grounds, which cannot be assailed. He, therefore, urges this Court to dismiss the instant appeal.

[10] Heard and perused the evidence on record.

[11] Upon hearing the submissions made at the Bar and on consideration of the materials on record, this Court finds force in the argument advanced by Mr. Das Chawdhury, learned counsel for the claimant respondent. This Court is of the opinion that the insurance company was given ample opportunity to produce evidences or to bring to the notice of the learned tribunal if there had been any contradiction or to examine concerned person(s) during trial but, the appellant, by filing this appeal, has raised new issues which were not raised before the learned tribunal.

[12] Hence, this present appeal filed by the appellant insurance company is liable to be dismissed and the impugned judgment & award dated 23.06.2025, passed in Case No. T.S. (MAC) 32 of 2021 by the learned Tribunal is liable to be affirmed and upheld observing that the issues not raised before the learned tribunal below cannot be adjudicated upon by this Court entertaining the new grounds. Accordingly, the same is ordered.

[13] This Court directs that the awarded amount, if not yet disbursed, shall be deposited to the Registry of the High Court of Tripura by the appellant within a period of one month from today. On such deposit, the claimant(s) would be at liberty to withdraw the same as per procedure.

[14] It is also observed that at the time of filing of the present appeal, a statutory amount of Rs.25,000/- was deposited by the appellant. It is open for the appellant either to claim return of the same from the Registry or to adjust the same with the compensation.

[15] With the above observations and directions, the present appeal stands dismissed and hereby the same is disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

DR. T. AMARNATH GOUD, J

