

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.132 of 2025

1. The Divisional Manager, the New India Assurance Company Ltd.

..... *Appellant*

-V E R S U S-

1. Sahid Miah @ Sahid Miah Aziz and two others.

.....*Respondents.*

B_E_F_O_R_E
HON'BLE JUSTICE DR. T. AMARNATH GOUD

For Appellant(s)	:	Mr. G.S. Das, Advocate.
For Respondent(s)	:	Mr. K. Datta, Advocate.
		Mr. S. Pal, Advocate.
Whether fit for reporting	:	<i>YES/NO</i>

Judgment and order dated 23rd February, 2026

JUDGMENT & ORDER [ORAL]

Heard.

[2] This is an application filed under Section-173 of the M.V. Act against the impugned award dated 13.08.2025 passed in T.S. (MAC) 76 of 2019 by the learned Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala, by the insurance company, the appellant herein, to exonerate them from the liability of award.

[3] The present appeal has been preferred against the judgment and award dated 13.08.2025 by which, the learned Court below has awarded Rs.16,27,000/- with 8% interest per annum shifting the liability of the award upon the appellant insurance company without identification of the Bolero Truck bearing registration No. TR-03-F-1608 and hence, this appeal is filed to exonerate the liability of award upon the insurance company by setting aside the award as the vehicle against which the claim petition was filed is not identified out during police investigation.

[4] The learned Court below after hearing the parties and on perusal of the material evidence on record has observed as under:

“27. In the result, present application under section 166 of the M.V. Act, 1988 filed by the claimants is allowed on contest with an award of Rs. 16,27,000/-

(Rupees Sixteen Lakh Twenty-Seven Thousand) only with 8 % simple interest from the date of filing of the claim petition i.e., from 02.04.2019.

28. The noticee New India Assurance Co. Ltd. is hereby directed to pay the compensation amount as determined herein above. Payment shall be made directly to the individual bank accounts of the claimants within a period of 30 (thirty) days from the date of this award in terms of Section 168(3) of the Act in the manner directed hereinafter.

29. The noticee insurer shall give notice of the payment of the compensation amount to the claimants and shall also file a compliance report with this Tribunal within 15 days of the deposit.

APPORTIONMENT OF COMPENSATION

30. The claimant No. 1 Sahid Miah @ Sahid Miah Aziz being the father of the deceased shall get 40% of the total compensation amount. 31. The claimant No.2 Haruja Khatun being mother of the deceased shall get 60% of the total compensation amount.

PROTECTION OF AWARD MONEY & MANNER OF DISBURSEMENT

32. An amount to the tune of 50% of the share of each of the claimants shall be paid directly to their individual bank accounts and they are directed to furnish their bank details with the noticee insurer immediately.

33. Rest 50% from their share shall be invested by purchasing fixed deposit for a period of 5 years with auto renewal facility from any nationalized bank, preferably, the UCO Bank, District Court Branch, Agartala. However, no pre-matured loan or withdrawal in any form shall be allowed without order of this Tribunal.”

[5] Being aggrieved by and dissatisfied with the same, the present appeal has been preferred by the appellant-insurance company before this Court for adjudication.

[6] Mr. G. S. Das, learned counsel appearing for the appellant has submitted that the learned Court below ought to have considered that the claimant respondents suppressed the material facts without submitting the police final report as during investigation the alleged Bolero truck could not be identified by any person. If the Bolero truck was at all involved in the alleged accident, then the claimant respondents should come with clean hand by submitting the police final report. The claim petition was filed in collusion with the owner of the vehicle as the owner admitted the accident and involvement of his Bolero truck in the alleged accident wherein the police could not find any witness who saw the accident.

[7] PW-2 namely, Saha Alam Miah claiming himself as eye witness for the reason that no statement under Section-161 of Cr.P.C. has been submitted by the claimant respondents to establish that PW-2 actually was the eye witness and

the police was examined him. So, in absence of any statement as recorded by the police the evidences of the PW-2 as eye witness, ought to have been disbelieved.

[8] The learned Court below very illegally discard the evidences of the investigating officer who submitted final report stating that no eye witness was found and as such, the Court below ought to have considered that the claimant respondents filed the claim petition in collusion with the owner of the Bolero truck wherein the said Bolero truck was also not involved with the alleged accident.

[9] It has been further contended that the learned Court below did not consider the evidences of the appellant wherein, it is clearly denied the involvement of alleged Bolero truck considering the police final report. The learned Court below ought to have considered the evidence of the insurance company which is supported by documents, but that has not been considered and without appreciating the evidence shifted the liability of the award upon the appellant.

[10] The appellant-insurance company filed its written reply, contested the claim and denied and disputed the case and averments of the claimants and prayed for strict proof of the facts asserted by them. Apart from taking usual pleas, it further contended that the death of the victim was caused in a hit-and-run case involving an unknown Bolero vehicle and the Bolero truck was no way connected with the said accident. Further contention of the appellant is that the claim is excessive, imaginary and unrealistic. Additionally, the appellant took the plea of contributory negligence of the deceased in the said accident that its liability is subject to proof of valid insurance policy and compliance of its terms and conditions.

[11] In this regard, learned counsel appearing for the respondents has submitted that involvement of the offending Bolero truck has not been controverted by the owner in his written statement and further to that the claimants examined PW-2 as eye witness to the incident whose testimony remained un-assailed. Learned counsel further argued that every proceeding for compensation under MV Act is decided on its own facts and evidence and outcome of criminal proceedings cannot influence such decision.

[12] After considering the pleadings of the parties and the argument advanced in this case, one aspect of the case that is found undisputed is that death of victim was caused in the accident involving one Bolero truck which occurred on 31.01.2017 at about 7 a.m. and that such accident was result of rash and negligent driving of the offending vehicle. The narration made in the FIR also supports such fact. The seizure memo dated 31.01.2017 further reveals that the motor cycle of the victim was recovered from the occurrence place by police with accidental damage. The post mortem report of the deceased further reveal that cause of death of the victim was intracranial hemorrhage following fracture of skull bone. Now, if we consider all such materials in their totality, we would find that the case of the claimants that death of the victim was caused in the said accident passes the test of probability.

[13] Bare perusal of statement of the owner in his written statement clearly shows that he neither expressly not by implication denied involvement of his Bolero truck in the said accident. He merely disputed the allegation of rash and negligent driving of the vehicle. That being the position of pleading of the owner, his testimony in the examination-in-chief denying involvement of his Bolero truck in the accident cannot be accepted on the fundamental principle of '*proof beyond leading*'. It is settled position of law that for maintaining a claim for compensation under the MV Act presence of police case is not a *sine qua non* and case of the claimant may be decided basing on the evidence lead in the case. It is true that the police case registered on the occurrence of present accident ended in filing of final report by police with report that the offending Bolero truck could not be detected. But this fact cannot be seen as negation of the case of the claimants as to involvement of the Bolero truck of the owner, if the same gets proved on the basis of evidence adduced.

[14] PW-2 in this examination-in-chief deposed that at the time of accident he was present in front of LPG counter located near the occurrence place and from there he saw the victim being knocked down by the Bolero truck. He further testified that after knocking down the victim the, said Bolero truck fled away from the spot. He also deposed that the Bolero truck

was moving towards Agartala. In cross-examination he stood firm and answered detail query made from the owner and the appellant. The OPs failed to shake his credibility in any manner.

[15] It is true that the PW-2 divulged that he did not lodge any FIR on that incident. It is equally true that the investigating agency did not record his statement in the police case registered on the said accident. But such circumstances do not make the testimony of the PW-2 doubtful. It is common human behaviour that when one comes across any road traffic accident involving the victim not being a family member, one is hardly expected to lodge any FIR. Further non-examination of the PW-2 by the investigating officer of that case can be a lacuna in the investigation.

[16] In view of overall analysis made by the learned Court below and after going through the material evidence in its entirety, this Court is of the view that the assessment of compensation and fastening of the liability to pay the award as assessed by the learned Court below, is just and proper and needs no interference thus, the findings as arrived at by the learned Court below stands affirmed. Consequently, the present appeal stands dismissed.

[17] As a sequel, miscellaneous applications pending, if any, shall stand closed.

DR.T. AMARNATH GOUD, J

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