THE HIGH COURT OF TRIPURA
A G A R T A L A

MAC APP. NO.06 OF 2009

1. Shri Sudhan Munda,
   S/O. Late Sama Munda,
2. Smt. Kalphana Munda,
   W/O. Shri Sudhan Munda,
   Resident of Dhalabil Colony (Sarkar Para),
   P.S.-Khowai, District:-West Tripura.

..... **Appellants.**

– V e r s u s –

1. Shri Pintu Sarkar,
   S/O. Sri Nirendra Chandra Sarkar,
   Resident of Dwarikapur, P.S.-Kalyanpur,
   District:-West Tripura.
   (Owner of the vehicle
   No.TR-01-G-1502).
2. United India Insurance Company Ltd.,
   Agartala Branch, Mantri Bari Road,
   P.S.-West Agartala, Agartala,
   District-West Tripura.
   Represented by its Branch Manager.
   (Insurer of vehicle No.TR-01-G-1502).

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellants	: Mr. S. Lodh, Advocate.
For the respondent No.2	: Mr. S.D. Choudhury, Advocate.
Date of hearing & judgment	: 19.01.2015.
Whether fit for reporting	: **NO**.

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation has been filed by the parents of deceased Ranu Munda, a young boy aged about 18 years who died as a result of injuries suffered in an accident involving truck bearing registration No.TR-01-G-1502 and is directed against the award dated 20-11-2008 passed by the learned Motor Accident Claims Tribunal, West Tripura, Khowai in case No. T.S.(MAC) 15 of 2008 whereby the learned Tribunal awarded compensation of Rs.1,72,000/- along with interest in favour of the claimants.

2. The claimants are the parents. It is claimed that the mother is aged 33 years and the father is aged 37 years. It is difficult to believe this portion of the statement of the mother because when the son is aged 18 years, the age of the mother could not have been 33 years because that would mean that she was married at the age of 14 years and delivered the baby at the age of 15 years. This does not appear to be correct in today's day and age. However, the age of the deceased is not disputed to be 18 years.

3. Whereas the claimants claim that the deceased was earning Rs.150/- per day as a labourer, the learned Tribunal assessed the income of the deceased at Rs.15,000/- per annum. The learned Tribunal lost sight of the fact that he was not dealing with a case filed under section 163A but was dealing with a case filed under section 166 of the Motor Vehicles Act. The claim of the claimants that the deceased was earning Rs.150/- per day cannot be said to be excessive. However, a labourer does not earn everyday of the month and everyday of the year but keeping in view the future prospects of the young boy, I assess the income at Rs.150/- per day or Rs.4,500/- per month.

4. This Court follows two methods while assessing compensation. In those cases where the claimants are parents and

the deceased was unmarried, 50% is deducted for the personal expenses of the deceased and in such eventuality, the multiplier is applied by taking into consideration the age of the deceased. In case, the multiplier is to be applied by taking into consideration the age of the claimants, then only 1/3rd should be deducted for the personal expenses of the deceased.

5. In this case, since the age of the parents cannot be ascertained correctly, I proceed to apply the method of deducting 50% of the wages and applying the multiplier by taking into consideration the age of the deceased. Therefore, the loss of dependency works out to Rs.2,250/- per month or Rs.27,000/- per year and multiplier of 18 has to be applied and the compensation works out to **Rs.4,86,000/-**.

6. In addition thereto, the claimants are held entitled to **Rs.10,000/-** as compensation for funeral expenses. They are also held entitled to **Rs.10,000/-** for loss to the estate. The claimants who are the parents are also awarded **Rs.50,000/-** for loss of love and affection of their son.

Therefore, the total award is assessed at Rs.(4,86,000 + 10,000 + 10,000 + 50,000) = Rs.5,56,000/- (rupees five lakh fifty six thousand).

7. The compensation is apportioned as follows:-

Mother Smt. Kalphana Munda :- Rs.4,00,000/-;

Father Shri Sudhan Munda :- Rs.1,56,000/-;

Out of the amount so awarded, the amount payable to the father shall be released to him. However, out of the amount payable to the mother in addition to the amount which may have already been paid to her, a sum of Rs.1,00,000/- will be released in her favour and the balance amount shall be kept in a fixed deposit for a period of 5(five) years and the interest accruing thereupon shall be paid to her on quarterly basis by remitting it to her bank account, details whereof along with photocopy of the first page of the passbook be filed in the Registry of this Court within four weeks from today. On completion of five years of the fixed deposit, the entire amount shall be paid to the mother.

8. In view of the above discussion, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs.1,72,000/- to Rs.5,56,000/-, i.e. by Rs.3,84,000/-. On the amount of compensation so awarded, the claimants shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount. Since the Insurance Company has already satisfied the award of the Tribunal, it is directed to deposit the enhanced amount of compensation along with interest in the Registry of this Court within 8(eight) weeks from today after deducting/adjusting the amount, if any, already paid/deposited by them along with proof of such earlier deposit.

9. The appeal is disposed of in the aforesaid terms.

10. Send down the lower court records forthwith.

CHIEF JUSTICE