

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.25 OF 2010

Smt. Sumati Singha,
W/O. Shri Jogesh Ch. Singha,
Resident of Surjyamaninagar,
P.S.-Amtali,
District-West Tripura.

..... **Appellant.**

- V e r s u s -

1. Shri Fulendra Das,
S/O. Late Makhan Lal Das,
Resident of Gajaria,
S.D. Mission Colony,
P.S.-West Agartala,
District-West Tripura.
(Owner of the Vehicle No.TR-01-3134, Commander Jeep).
2. The Branch Manager,
National Insurance Co. Ltd.,
Akhaura Road, Agartala,
P.S.-West Agartala,
District-West Tripura.
(Insurer of the vehicle No.TR-01-3134, Commander Jeep).

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	: Mr. H.K. Bhowmik, Advocate.
For the respondent No.1	: Mr. S. Bhattacharji, Advocate.
For the respondent No.2	: Mr. P. Gautam, Advocate.
Date of hearing and delivery of judgment and order.	: 28.01.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation is directed against the award dated 30-01-2010 passed by the learned Motor Accident Claims Tribunal, Court No.4, West Tripura,

Agartala in case No. T.S.(MAC) 68 of 2005 whereby he awarded a sum of Rs.25,502/- in favour of the petitioners.

2. Briefly stated, the facts are that originally the claim petition was filed by one Samir Singha for compensation on account of injuries received by him in a motor vehicle accident. Samir Singha suffered head injury in the said accident. It is proved on record that he was already suffering from renal problem and in the year 2007, two years after the claim petition was filed, he died on account of urinary problem. Thereafter, the mother, widow and minor daughter of the deceased filed a petition that they may be impleaded as parties. This petition was rejected. Thereafter, the legal heirs approached the Agartala Bench of the Gauhati High Court which allowed the petition but held that the deceased had not died as a result of the injuries sustained in the accident and, therefore, the claim of the petitioners would be limited to the loss of estate suffered by the deceased.

3. The undisputed facts are that after the claimant received the injury on 24-10-2004, he was taken to the hospital and remained admitted in the hospital till 10-12-2004, i.e. he remained in hospital for 48 days. The learned Tribunal held that the deceased was earning Rs.3,000/- per month and since he remained hospitalized for 48 days, the learned Tribunal held that the deceased may not have worked for three months and awarded him Rs.9,000/-. With regard to medicines, the learned Tribunal awarded Rs.6,502/- on the basis of vouchers and another sum of

Rs.10,000/- was awarded as special diet, cost of treatment etc. The total compensation was assessed at Rs.25,502/-.

4. I am clearly of the view that this compensation is very much on the lower side. Though the petitioners-appellants are only entitled to loss of the estate and, therefore, no amount can be paid to them for pain and suffering, loss of future income etc. the fact remains that the deceased was a married man aged about 27 years and even assuming that he was a labourer, in the year 2004 he would not have been earning less than Rs.150/- per day and, therefore, his income is assessed at Rs.4,500/- per month. I am of the view that in view of the nature of injuries suffered by the claimant, he could not have worked for at least 6(six) months and, therefore, he is awarded **Rs.27,000/-** for loss of income.

5. As far as medical expenses are concerned, it may be true that vouchers of only Rs.6,502/- have been produced but keeping in view the nature of injuries and the fact that people belonging to the labour class, who do not get reimbursement, will not normally retain their bills, I award a sum of **Rs.15,000/-** as medical expenses.

6. The claimant was in hospital for 48 days. In India, the condition in Government hospitals is such that when a patient is admitted, an attendant is required almost round the clock. Therefore, two attendants would have had to look after the deceased and even if in the year 2004 the cost of one attendant is taken at Rs.150/- per day and the cost of two attendants at

Rs.300/-, the cost of attendants only works out to Rs.14,400/-, which is rounded off to **Rs.15,000/-**.

Therefore, the total compensation works out to Rs.(27,000 + 15,000 + 15,000) = Rs.57,000/- (rupees fifty seven thousand).

7. 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.25,502/- to Rs.57,000/-, i.e. by Rs.31,498 /-. On the amount of compensation so awarded, the claimants shall also be entitled to interest @ 7.5% 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.

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

9. Send down the lower court records forthwith.

CHIEF JUSTICE