

THE HIGH COURT OF TRIPURA

AGARTALA

MAC App. No. 72 of 2010

Appellants :

- 1. The State of Tripura,**
Represented by the Director General of Police,
Govt. of Tripura, Police Head Quarter, Agartala,
P.O-Agartala.
- 2. The Director General of Police,**
Govt. of Tripura, Police Head Quarter, P.O-
Agartala.

By Advocate :

Mr. A. Pal, Adv.

Respondents :

- 1. Smti. Purnima Singha,**
W/o. Shri Ratan Ch. Singha.
- 2. Shri Ratan Ch. Singha,**
S/o. Late Manindra Ch. Singha,
Both are resident of North Badharghat,
Madhyapara, P.S- West Agartala, P.O- Agartala,
Sub-Division-Agartala, District-West Tripura.
- 3. Sri Rakhal Chakraborty,**
S/o. Lt. Upendra Chakraborty, Resident of North
Badharghat, District-West Tripura, Agartala, P.O-
Agartala.
(Owner of Bike bearing No. TR-01-H-5443)
- 4. The Oriental Insurance Company Ltd.**
Agartala, West Tripura, P.O-Agartala.
(Insurer of Bike bearing No. TR-01.H-5443)

By Advocate :

Mr. A. Roy Barman, Adv.
Mr. K. Bhattacharjee, adv.

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing : **2nd March, 2015.**

Date of Judgment & Order : **11th March, 2015.**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER

This appeal by the State of Tripura is directed against the award dated 18.05.2010 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in Case No. T.S(MAC) 417 of 2008 whereby he awarded the compensation of Rs. 5,01,800/- in favour of the claimants.

[2] Briefly stated, the facts of the case are that the claimants who are the parents of deceased Suman Singha filed a claim petition under Section 166 of the M.V. Act claiming compensation for the death of their son. In the claim petition it was alleged that their son Suman Singha was travelling on a motor cycle bearing registration no. TR01-H-5443 as pillion rider. However, in the claim petition it was not stated who was driving the motor cycle. It was alleged that a collision took place between this motor cycle and a jeep bearing No. TR01-B-0887 belonging to the Police Department. In the claim petition it was alleged that the accident occurred only due to the negligence of the driver of the police jeep. However, the name of the driver of the police jeep or the name of the driver of the motor cycle were not mentioned. The owner of the motor cycle denied the allegation made in the claim petition and according to the owner, the motor cycle was taken away by the deceased from the house of the owner without his permission. Therefore, according to the owner of the motor cycle, it was the deceased himself who was driving the motor cycle.

[3] As far as defendants 1 and 2, the State of Tripura is concerned, in reply it was stated that there was a collision between the motor cycle and the police jeep but according to the respondents the deceased Suman Singha was driving the motor cycle at a high speed and he dashed into the police jeep.

[4] The claimants only examined the mother of the deceased who admittedly is not an eye witness to the occurrence. Therefore, she has no personal knowledge as to how the accident took place. In cross-examination she has stated that at the time of the accident she was at home. She also admitted that she has not examined any persons as witnesses who told her about the occurrence. The owner of the vehicle did not step into the witness box.

[5] One Ratan Bir, a Constable driver of the police appeared as DW-1. He however, does not state that he was driving the vehicle. It does appear that he may have been driving the police vehicle but he has not clearly stated so. However, in cross-examination he has admitted that on the night of the incident he had surrendered to his authority. Therefore, he appears to be the driver of the police vehicle and according to him the negligence was of the deceased Suman Singha. The police also examined D.W-2, Pranjit Ghosh, Sub-Inspector of Police who carried out investigation and he also states that during investigation it was established that the accident occurred due to rash and negligence driving of the deceased.

[6] Here it would be pertinent to mention that no map has been produced by the police about the site of the accident. On the one hand, the claimants have not produced any evidence and on the other, the statement of the police witnesses cannot be totally relied upon. Since there is a head on collision between the two vehicles and there is no other evidence on record, I hold both the drivers equally responsible to pay the compensation.

[7] Coming to the amount of compensation. The income of the deceased taken into view his future prospect is assessed at Rs.6000/- per month. 50% is deducted for the personal expenses of the deceased and the loss of

dependency comes to Rs.3000/- per month or Rs.36,000/- per year. Applying the multiplier of 18 the compensation works out to Rs.6,48,000/-. In addition thereto the claimants are awarded Rs.10,000/- for funeral expenses and Rs.20,000/- for loss of their son, i.e. total compensation of Rs.6,78,000/-. Since the deceased has been guilty of contributory negligence, the parents-claimants were entitled to 50% of the compensation which works out to Rs.3,39,000/-.

[8] Therefore, the total compensation payable by the appellant-State i.e. the Director General of Police comes to Rs.3,39,000/-. The claimants are also entitled to interest on the amount of compensation @ 7.5% per annum from the date of filing of the claim petition till deposit of the amount. Accordingly, the appellant-opposite party No.2, the Director General of Police is directed to deposit the amount of compensation i.e. Rs.3,39,000/- along with proportionate interest thereupon in the Registry of this Court within four months from today.

[9] The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE