

THE HIGH COURT OF TRIPURA

A G A R T A L A

MAC App. No. 23 of 2012

Appellant:

Smt. Sandhya Laxmi Debbarma
@ Sandhya Debbarma.

W/o. Late Surjya Debbarma,
Resident of Harijoy Chowdhury Para, P.O-
Majlispur, P.S-Ranir Bazar, District-West Tripura,
Agartala. Pin:-

By Advocate :

Ms. P. Dhar, Adv.

Respondent-Opposite Parties :

1. The Officer Commanding 120 RCC,
GREF, C/o. 99 APO, Bagafa, South Tripura.
(Owner of the Truck No. 00E69776)

(As per Hon'ble Court's Order dated 25.07.2012
passed in C. M. Appl. No.350 of 2012 cause title
is corrected.)

2. Shri Subash Chandra Bhowmik,
S/o Late Rajendra Chandra Bhowmik,
Secretary-Kalyanpur Loknayak Motor Shramik
Samabay Samiti Ltd., Kalyanpur, District: West
Tripura.
(Owner of the Bus No. TRS-842)

3. The Divisional Manager,
National Insurance Company Limited,
Agartala Branch, Akhaura Road, Agartala,
District: West Tripura, (Insurer of the vehicle
bearing No. TRS-842, Bus)

By Advocate :

Mr. D. R. Choudhury, Adv.
Ms. L. Sarkar, Adv.

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **9th September, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER(Oral)

This appeal by the claimant is directed against the award dated 15.09.2011 passed by the learned Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in TS (MAC) No.423 of 2005 whereby the Tribunal rejected the claim petition of the petitioner on the ground that one necessary party had not been impleaded in the claim petition.

[2] The claim petition was filed by Smt. Sandhya Laxmi Debbarma @ Sandhya Debbarma claiming compensation in respect of the death of her son in a motor vehicle accident. In the claim petition it was stated that the deceased was travelling on a motor cycle with his friend and when the motor cycle was near Jirania College Chowmuhan truck bearing No.00E69776 belonging to the GREF was coming from the west side of the Assam Agartala Road on a high speed and dashed against the motor cycle. At that time, another vehicle bearing No.TRS 842 was coming from the opposite direction. This vehicle (bus) was also been driven at a high speed and this vehicle crashed the son of the claimant. The learned Tribunal held that the owner of the motor cycle and the insurance company, if any, of the motor cycle were also necessary parties to the petition.

[3] I am in agreement with the learned Tribunal to this extent. However, the further action of the learned Tribunal in dismissing the claim petition is totally illegal. Even if the Tribunal had come to the conclusion that there were some other necessary parties, one opportunity should have been given to the claimant to implead that necessary party in the petition.

[4] We must remember that we are dealing with the petition for grant of compensation filed under the Motor Vehicles Act, 1988. Under Section

158 of the Act the Court is also entitled to take *suo motu* notice of an FIR. It is the duty of the Tribunal to ensure that all parties are properly represented before it and even without a formal application the owner of the motor cycle could have been arrayed as a party.

[5] Ms. P. Dhar, learned counsel for the claimants submits that the claimant herself will move an application for amending the petition and impleading the owner and driver of the motor cycle as parties in the petition.

[6] In this view of the matter, the appeal is allowed. The judgment and order of the learned Tribunal dated 15.09.2011 is set aside and it is directed that the claimant may on or before the date now fixed appear before the Tribunal along with the amended petition. No formal application for amendment need be filed since the amendment is being allowed by this Court and the amended writ petition must be filed in the learned Tribunal on the date fixed.

[7] The parties are directed to appear before the learned Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala on 26th November, 2015 and on that date the claimant must file the amended petition. In case, the claimant fails to file the amended petition then the petition shall be dismissed for not having taken steps in accordance with the direction of this Court.

In case the claimant files the amended petition then the notices shall be issued to the newly impleaded parties and if the respondents so desire, they can also file fresh written statement to the amended petition. Thereafter the parties will have to adduce evidence afresh, if any, and award shall have to be passed after considering the fresh evidence.

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

Send down the LCRs forthwith.

CHIEF JUSTICE