

THE HIGH COURT OF TRIPURA
AGARTALA

MAC App. No. 23 of 2011

Appellant-Claimant:

Sri Abani Mohan Sarkar,
S/o. Late Mahendra Sarkar,
Vill. South Badharghat, Shyamapalli, P.O.
Charipara, P.S.-Amtali, Dist.-West Tripura.

By Advocate :

Mr. R. R. Dutta, Adv.

Respondent-O. Ps. :

1. Mr. Nripendra Roy @ Nipu Roy,
S/o. Nibaran Roy, Vill. A. D. Nagar, Agartala,
P.O- A. D. Nagar, P.S-West Agartala, Dist.-West
Tripura, [(Owner of the vehicle No. TRT-2903
(Auto Rickshaw)].

2. The New India Assurance Co. Ltd.
Represented by its Branch Manager, Branch
Office : 4 Mantribari Road, Agartala, P.S- West
Agartala, Dist. West Tripura, Insurer of the
Vehicle No. TRT-2903 (Auto Rickshaw)

By Advocate :

Mr. K. Bhattacharji, adv.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

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

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER(Oral)

This appeal by the claimant is directed against the award dated 23.12.2010 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S(MAC) No. 483 of 2004 whereby the claim petition has been dismissed.

[2] The claim petition has been dismissed on the ground that the accident has not been occurred. I am not at all in agreement with the finding given by the claims Tribunal. The medical evidence on record clearly indicates that the claimant suffered an injury in a road traffic accident which took place on 30th January, 2004. No doubt in the discharge certificate of the G.B.P Hospital the same is not mentioned but in a lot of other records of January and February, 2004 itself it is mentioned that the claimant suffered injuries in an accident which took place on 30th January, 2004. There is a G.D Entry and the same was made only on 7th May, 2004 and here the learned Tribunal is right that no reliance can be placed on the same. But I find that even in the record of the Silchar Medical College of 26.02.2004 i.e. within one month of the accident it has been mentioned history of RTA on 30th January, 2004. Similarly, there are other entries in the contemporaneous medical record to show that the claimant suffered injuries. However, the claimant has not come to the Court totally telling the truth. He was an employee of the Food Corporation of India which has a reimbursement policy. The claimant has not clearly stated what amount was reimbursed to him and what was not reimbursed.

[3] Be that as it may, the evidence on record reveal that the claimant was hospitalized from 30th January, 2004 to 10th February, 2004 and he suffered blunt trauma of the chest and some injury in the abdomen. Thereafter he went to the hospital at Silchar and was treated there for the very same injuries. He also went to Delhi and was treated as an out-patient for shoulder pain in June-2004. There are many other documents placed on record but they only relate to minor problems and in fact in all most all these medical slips it is mentioned that the claimant is complaining of pain and acidity and most of the treatment is in relation to acidity. There is no disability certificate placed on record. But the evidence clearly depicts that the claimant did suffer injuries in the chest region

and may have had some fracture in the ribs though in the first discharge certificate that is not mentioned.

[4] Since there is no clear cut medical evidence, I proceed to assess the compensation on the basis of the little evidence which has been placed on record. The claimant was getting a salary of Rs.8982/- per month which is rounded off to Rs.9000/- per month and in view of the injuries it can safely be assumed that he could not have worked for two months. Therefore, he is awarded Rs.18,000/- for loss of income.

[5] The claimant remained in hospital for 12(twelve) days and two attendants would have required round the clock. Since the occurrence took place in January, 2004 the cost of one attendant is taken at Rs.200/- per day and the cost of two attendants for 12(twelve) days works out to Rs.4800/- which is rounded off to Rs.5,000/-.

[6] As far as medical expenses are concerned the claimant has produced on record a number of documents but some of them are only receipts for blood test for sugar, some are for acidity which have no connection with the accident. Therefore, I am discarding these documents and keeping in view the nature of injuries, the claimant is awarded an amount of Rs.5,000/- for medical expenses.

[7] It is also clear that the claimant went to Silchar for his treatment and he also went to Delhi. He has placed on record his train travel tickets for going to Delhi and Silchar. He is awarded sum of Rs.3,000/- for travelling expenses. In addition thereto, the claimant is held entitled to Rs.10,000/- for pain and suffering and other allied expenses.

[8] The total compensation is, therefore, assessed at Rs. (18,000/- + 5,000/- + 5,000/- + 3,000/- + 10,000/-) = Rs.41,000/-. The claimant shall also be entitled to interest on the entire awarded sum of Rs.41,000/- @ 9% per annum from the date of filing of the claim petition till deposit of the amount. The insurance company is directed to deposit the entire awarded amount of compensation along with proportionate interest thereupon in the Registry of this Court within four months from today. Obviously, the insurance company shall be entitled to adjust the amount(s), if any, which it has already paid or deposited.

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

Send down the LCRs forthwith.

CHIEF JUSTICE