

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.69 OF 2012

Smt. Purnima Majumder (Saha),
W/O Late Santi Kumar Saha,
Of 79 Tilla (Datta Tilla), P.O.-Kunjaban,
P.S.-East Agartala,
District-West Tripura.

.... **Claimant-Appellant.**

- V e r s u s -

1. Sri Chandan Kumar Roy,
S/O. Late Manaranjan Roy,
C/O. Manaranjan Bastralaya,
Of Teliamura,
P.O. & P.S.-Teliamura,
District-Khowai.
(Owner of the Vehicle No.TR-01-D-0269, Maruti Van).
2. Oriental Insurance Company Ltd.,
Represented by its Branch Manager,
Central Road, P.O.-Agartala,
P.S.-East Agartala,
District-West Tripura.
(Insurer of the Vehicle No.TR-01-D-0269-Maruti Van).

.... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	: Mr. A. Gon Choudhury, Advocate.
For the respondent No.2	: Mr. P.K. Debnath, Advocate.
Date of hearing and delivery of judgment and order.	: 02.12.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER (ORAL)

This appeal by the claimant is directed against the
award dated 21.10.2009 passed by the learned Motor Accident

Claims Tribunal, Court No.3, West Tripura, Agartala in case No.T.S.(MAC) 310 of 2008 whereby he rejected the claim petition filed by the claimant mainly on the ground that there were discrepancies with regard to the date of the accident.

2. In the heading of the claim petition, it is stated that the accident took place at Champaknagar Bazar on 25.05.2006 at around 11 a.m. In column No.8 which deals with the place, date and time of accident, it is mentioned that the accident took place on 29.05.2005 at around 11 a.m. in Champaknagar bazaar. As far as the name and address of the Police Station is concerned, it is mentioned that Jirania P.S. Case No.29/06 has been registered under Sections 279, 338 and 427 of the IPC. According to the claimant, she was walking on the road when she was hit by a vehicle. In column No.13 of the claim petition, it is stated that the date of accident is 28.05.2008 and she was discharged from hospital on 02.06.2008 after 6(six) days. In para-20 of the claim petition, it is mentioned that the accident took place on 28.05.2008 at about 11 a.m. Therefore, in the claim petition itself the claimant has given three different dates with regard to the accident. These are (i) 25.05.2006; (ii) 29.05.2005; and (iii) 28.05.2008. The learned Tribunal held and rightly so that when the claimant is herself not sure about the date of accident, how could the accident be proved. It would also be pertinent to mention that when the claimant filed her affidavit, she stated that the accident took place

on 29.05.2005 and in cross-examination she again reiterated that the accident took place on 29.05.2005. The matter does not end here. In the discharge certificate, the date of admission of the petitioner to hospital is shown as 28.05.2006. This is the fourth date. Therefore, the petitioner herself is not clear whether the accident took place on 28.05.2006, 29.05.2005, 28.05.2008 or 25.05.2006. The learned Tribunal was right in holding that when the claimant makes such a statement, it is not possible to rely upon her statement.

3. Shri A. Gon Choudhury, learned counsel for the petitioner, submits that the petitioner is a poor lady and she might have got confused about the date. Even a poor lady who meets with an accident will remember the date of the accident if nothing else. This is not something which happens in normal course and the date of the accident would be clearly known. It also would be pertinent to mention that though in appeal it is stated that the claimant is a poor lady and, therefore, benefit should be given to her, in the claim petition it was stated that she was working as a ladies tailor in the shop of one Sri Babul Dutta and earning Rs.4,500/- per month. How can she be a poor lady, if she was earning Rs.4,500/- per month in the year 2005 or 2006?

4. I am clearly of the view that there is something amiss in the case. No doubt, the claimant suffered injuries in a road

traffic accident which took place on 28.05.2006 as is apparent from the discharge certificate which shows that the petitioner was referred to the G.B Hospital from Jirania Rural Hospital and was admitted on 28.05.2006 with history of R.T.A. (road traffic accident). The FIR was, however, not lodged on the same date. It was lodged after one week and for the first time the number of the vehicle was mentioned on the said date. It appears to me that the number of this vehicle was wrongly given. However, the owner of this vehicle has admitted the accident. He has also stated that his vehicle is insured but no policy of insurance has been produced on record. The original policy of insurance, original driving license of the driver and other documents have not been produced on record. The owner did not even step into the witness box to prove any documents. Therefore, though I have my doubts as to what was the date of the accident, since the owner has admitted the accident, it is held that the claimant suffered injuries but it is also held that the owner alone shall be liable to pay the compensation since she has not proved the policy of insurance, the driving license of the driver etc.

5. Coming to the quantum of compensation. The claimant remained in hospital for 5(five) days. She was only suffering from tenderness and a few abrasions. There is no grievous injury on her person. The injuries are all simple in nature. The expenditure amounts to about Rs.6,000/-. Since the claimant was absolutely

okay after 6(six) days, there is hardly any loss of income. Therefore, I award her a total amount of Rs.15,000/- (rupees fifteen thousand) as compensation.

6. In view of the above discussion, the award of the learned Tribunal is set aside and the claimant is awarded an amount of Rs.15,000/- as compensation. On this amount, the claimant shall also be entitled to interest @ 6% per annum from the date of filing of the claim petition till payment/deposit of the amount. Lower rate of interest has been awarded because of the confusion created by the petitioner and her counsel with regard to the dates. It is held that the owner alone will be liable to pay the compensation and it is held that the Insurance Company is not liable to satisfy the amount.

7. The appeal is disposed of in the aforesaid terms. No order as to costs.

8. Send down the lower court records forthwith.

CHIEF JUSTICE