

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.24 OF 2011

Shri Tapan Das,
S/O. Late Radha Kanta Das,
C/O. Sri Ramendra Chandra Deb,
Vill : Badharghat Sripalli,
P.O. A.D. Nagar, PS: Amtali,
District-West Tripura.

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

- V e r s u s -

1. Shri Harendra Das,
S/O. Bhuban Mohan Das,
Vill : Chhutosurma,
P.O. & PS: Kamalpur,
Dist : Dhalai Tripura.
(Owner-cum-Driver of vehicle No.TR-01-4144
(Commander Jeep).
2. The National Insurance Company Ltd.,
(Notice to be served upon the Divisional Manager),
Divisional Office, A.K. Road,
Agartala-799001, West Tripura.

..... **O.P.-Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. M.K. Roy, Advocate.

For the respondent No.2 : Mr. A.L. Saha, Advocate.

Date of hearing and : 12.06.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation is directed against the award dated 23-12-2010 passed by the learned Motor Accident Claims Tribunal, Court No.1, West Tripura,

Agartala in case No. T.S.(MAC) 621 of 2003 whereby he awarded a sum of Rs.40,000/- along with interest in favour of the claimant.

2. Briefly stated, the facts are that the claimant suffered an injury in a motor vehicle accident and he was admitted for one day in the hospital on 16-03-2002 and discharged on the next day, i.e. on 17-03-2002 with diagnosis of blunt trauma injury in the shoulder region. Thereafter, the claimant got himself treated as an OPD patient from Dr. Tapan Kumar Das in the month of March, 2002 with regard to the same problem and this treatment continued for about 5(five) months.

3. The claimant filed the claim petition claiming compensation of Rs.7,46,000/- and thereafter, the issues were framed on 30-04-2005 but on 16-06-2006 the case was dismissed for non-prosecution. Finally, the Tribunal reinstated the case on 21-06-2010 and by the impugned award awarded a sum of Rs.40,000/- as compensation along with interest @ 6% per annum but the interest was limited from the date of restoration of the petition, i.e. 21-06-2010 till payment of the amount. This appeal for enhancement has been filed. One of the points raised is that the claimant should be paid interest right from the date when the claim petition was initially filed and the second ground is that various medical certificates had not been taken into consideration while deciding the claim. At this stage, it would be pertinent to mention that the claimant himself expired during the pendency of this appeal and this claim petition is being prosecuted by his legal heirs. It is settled law that the legal heirs are not entitled for any

amount which was personal to the deceased and in a case of injuries, the legal heirs can prosecute the case only in respect of the actual pecuniary damage which the deceased may have suffered. No amount can be paid for pain and suffering, loss of amenities of life etc. to the legal heirs of an injured person.

4. A large number of medical reports etc. have been placed on record but except for the initial report and the medical prescriptions of Sri Tapan Das of the year 2002, all the other medical prescriptions relate to diseases which have no connection with the injuries sustained by the claimant at the initial stage. To give certain examples, there is one OPD slip which relates to constipation; there is another OPD slip which relates to cough and dry cough; there is another slip which relates to cardiology. How do these have any relationship with this accident that too, a minor accident wherein he was in hospital for only one day and released thereafter?

5. The learned Tribunal has awarded Rs.15,000/- for medical treatment, Rs.7,000/- for pain and suffering and Rs.18,000/- for loss of income. In my opinion, this award is more than reasonable calling for no enhancement. However, I am of the view that the learned Tribunal erred in limiting the interest only from 21-06-2010. I am clearly of the view that the claimant should be entitled to interest from the date of filing of the claim petition till the petition was dismissed in default on 16-06-2006 and thereafter, he shall again be entitled to interest from the date of restoration, i.e. 21-06-2010 till the amount is paid. The only period

for which he is not entitled to interest is the period when the petition was lying dismissed in default. With this, the award is modified to this limited extent.

6. Send down the lower court records forthwith.

CHIEF JUSTICE