

THE HIGH COURT OF TRIPURA

A G A R T A L A

MAC App. No. 49 of 2009

Appellant :

Miss Ankita Rudra Pal,

D/o. Sri Rajib Rudra Pal, resident of Malancha
Nibash, Government Quarter Block No. 16-58,
P.S. East Agartala, West Tripura District.

By Advocate :

Mr. K. K. Pal, Adv.

Claimant-Respondents :

1. Sri Biman Dasgupta,

S/o. Sri Sachindra Chandra Dasgupta, Resident
of Nanda Nagar, Agartala, P.S-East Agartala,
West Tripura District,
(Owner of TR-01-L-0483, Maruti Van).

2. The Divisional Manager,

National Insurance Company Ltd. 42 Akhaura
Road, Agartala. P.S-West Agartala, West Tripura
District.
(Insurer of TR-01-L-0483, Maruti Van).

By Advocate :

Mr. A. L. Saha, Adv.

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing : **17th December, 2014.**

Judgment & Order : **13th January, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER

This appeal for enhancement of compensation is directed against the award dated 21st May, 2009 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S(MAC) No. 550 of 2006 whereby the Tribunal has awarded a sum of Rs.5,44,751/- along with interest @ 9% per annum in favour of the claimant.

[2] The undisputed facts are that the clamant who was a student of engineering at the relevant time suffered injuries in a motor vehicle accident. Thereafter she had to undergo for treatment at various stages and has also suffered some disabilities. On the claim petition being allowed the learned Tribunal awarded compensation of Rs.5,44,751/- to the claimant under the following heads:

(i) Medical expenses	= Rs.1,89,751/-
(ii) Future medical expenses	= Rs. 50,000/-
(iii) Travelling expenses to Kolkata	= Rs. 30,000/-
(iv) Loss of future prospect	= Rs.2,00,000/-
(v) For loss of one year academic year.	= Rs. 25,000/-
(vi) For mental shock and agony	= Rs. 50,000/-
Total : Rs.5,44,751/-	

[3] Sri K. K. Pal, learned counsel for the appellant alleges that the compensation is very much on the lower side. He has drawn my attention to a number of documents. These documents show that initially the claimant was admitted in G.B.P Hospital at Agartala from 06.10.2006 to 08.10.2006. She had fractures in her right leg and ankle. Therefore, she remained in hospital for three days on this occasion. She was again admitted to the hospital on 12.10.2006 and discharged therefrom on 06.11.2006 i.e. after 26 days. She was again admitted in hospital on 11.12.2006 and discharged therefrom on 14.12.2006, after three days. It appears that the claimant was referred for treatment outside Agartala and with regard to this treatment there are two documents. One is document dated 16.10.2006 which shows that she was admitted in hospital from 8.10.2006 to 16.10.2006 and the total expenditure at the hospital was Rs.63,161/-. There is another document dated 17.01.2008 issued by the department of Orthopaedics, Christian Medical College, Vellore which shows that she was admitted from

14.01.2008 to 17.01.2008 i.e. for 4(four) days and the nail was removed after sound union of the femur. She was also advised to wear moderate footwear with support for normal movement. She advised not to gain excessive weight. This documents itself shows that the main fracture of the leg had healed. There is also a disability certificate on record which is dated 18.04.2007. This disability certificate shows that there is deformity of the right ankle and disability to the extent of 45% with regard to the right ankle. However, it is clearly mentioned that this disability is not permanent and was valid only for a period of 5(five) years. Unfortunately, no doctor was examined and other than the statement of the claimant no evidence had been led to prove what was the exact medical disability.

[4] It is well settled law that in a case of injuries compensation is awarded under two heads; pecuniary damages and non-pecuniary damages. Under the head of pecuniary damages, the expenses of treatment, attendants, special diet, transportation, hospitalization will be covered. Under the head of pecuniary losses, the claimant will also be entitled to the amount of income which he has actually lost due to his being unable to attend his work and in case, the injury has caused a permanent disability, then the future loss of income shall also have to be considered. Under the head of non-pecuniary damages, normally damages will be awarded under the head of pain and suffering and in cases of permanent disability also for loss of amenities of life and future discomfort in life. In cases where the claimant is a young unmarried person and the injuries affect his marital prospects, damages for loss of marital prospects can also be awarded.

[5] The learned Tribunal has awarded Rs.1,89,751/- for treatment of the claimant and has also awarded Rs.50,000/- for future medical expenses. In fact, there is no cogent evidence to show that the claimant requires any future treatment because her fractures have healed. Be that as it may, I feel that the

sum of Rs.2,39,751/- awarded for the medical expenses is justified after taking into consideration the attendant charges and other small expenses for which receipt may not have been kept.

[6] The award of Rs.30,000/- for transportation to Calcutta and Vellore are reasonable calling for no enhancement.

[7] The claimant was studying in engineering, though she claims that she lost one academic year. There is no evidence to prove this fact. No document has been proved to show that she lost one year in the engineering college. The claimant could have easily proved from the record of the college to show that due to the accident she has lost one year of college.

[8] In fact, the award of Rs.2,00,000/- on account of loss of future amenities of life and loss of future prospect is on the higher side. Even the award of Rs.50,000/- for mental shock and agony appears to be excessive keeping in view the nature of injuries.

[9] In this view of the matter, I feel that no case whatsoever is made out for enhancement of compensation and the appeal is accordingly dismissed.

No order as to costs.

Send down the lower Court records forthwith.

CHIEF JUSTICE