

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. 42 of 2009

Sri Rajib Datta, Son of Sri Binod Behari Datta,
Resident of West Bank of Jagannath Dighi, Udaipur
Town, P.S. R.K. Pur, District – South Tripura.
(Owner of the Vehicle TR-03-1882 Truck)

..... *Appellant*

- Vs. -

1. Sri Mintu Nama,
Son of Sri Hari Mohan Nama,
Resident of South Chandrapur
P.S. R.K. Pur, District – South Tripura.
2. Md. Taher Miah, Son of Nur Miah,
Resident of Gokulpur, Udaipur,
P.S. – R.K. Pur, District – South Tripura.
(Driver of TR-03-1882 Truck)
3. The Branch Manager, National Insurance Company
Limited, Udaipur Branch, Central Road, Udaipur,
P.S. – R.K. Pur, District – South Tripura.
(Insurer of TR-03-1882 Truck)

..... *Respondents*

BEFORE

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : None.

For the respondent : Mr. P. Gautam, Advocate.
No.3.

Date of hearing & : 26.03.2015.
delivery of
Judgment & order.

Whether fit for : No.
reporting

JUDGMENT & ORDER (ORAL)

Earlier Mr. S. Deb, learned senior counsel instructed by
Mr. S. Choudhury, learned counsel had filed the present appeal.

On 16.12.2014, Mr. Saugata Datta, learned counsel had appeared for the appellant-owner and submitted that he is going to argue the matter. On his request, the matter was adjourned to 5th February, 2015.

On 5th February, 2015, Mr. Saugata Datta, learned counsel stated that after he went through the papers he found that he had appeared for the claimants in other proceedings arising out of the same accident and therefore, neither he nor Mr. S. Deb, learned senior counsel would be in a position to appear for the owner. As such, on 05.02.2015, this Court had directed that notice be issued to Sri Rajib Datta informing him that the case shall be taken up for hearing on 26th March, 2015 (today) and he may make alternative arrangements for his appearance in Court by the next date. This notice was sent to Sri Rajib Datta on 9th February, 2015 by a registered post with A/D.

2. Today none has put in appearance on behalf of the appellant and therefore, I proceed to decide the appeal on merits.

3. The appellant is the owner of the vehicle. The claimant filed a claim petition under Section 166 of the Motor Vehicles Act claiming compensation for the injury suffered by him due to rash and negligent driving of Truck No.TR-03-1882 owned by Sri Rajib Datta, the appellant and driven by Md. Taher Miah. The claimant appeared as his own witness to prove the allegations of negligence

and the learned Tribunal found that the claimant had suffered injuries in a motor vehicle accident involving truck No. TR-03-1882 and further gave a finding that the accident had occurred due to the rash and negligent driving of the driver of the said truck. Thereafter, the learned Tribunal assessed the compensation at Rs.35,252/- but however, exonerated the insurance company on the ground that the injured was travelling in the goods vehicle as a gratuitous passenger.

4. The owner has filed the appeal and the main ground raised is that the claimant was engaged as a labourer on the truck. In this regard, it would be pertinent to mention that the claimant claims that he is a mason. This Court can take judicial notice of the fact that masons will not be employed as labourers in a truck. A mason is supposed to do brick work or work of that nature and would not work as a labourer on a truck. The story that the claimant was working as a labourer on the truck is an absolutely false story as rightly held by the learned Tribunal because the claimant in the claim petition as well as in evidence had stated that he is a mason by profession. This finding of fact given by the learned Tribunal cannot be said to be a perverse or wrong finding of fact.

5. Therefore, I find no merit in this appeal, which is accordingly dismissed.

6. Send down the L.C.Rs forthwith.

CHIEF JUSTICE

sima