THE HIGH COURT OF TRIPURA
<u>A G A R T A L A</u>

<u>MAC APP. NO.68 OF 2009</u>

The United India Insurance Co. Ltd.,
Represented by its Branch Manager,
Agartala Branch, Ganaraj Chowmuhani,
P.S.-East Agartala, Agartala, West Tripura and
For and on behalf of the Branch Manager,
Dharmanagar Branch, Dharmanagar,
North Tripura. (Insurer of Canter
Truck No.TR-04-1548).

..... <u>Appellant</u>.

– V e r s u s –

1. Shri Ranachitra Chakma,
S/O. Late Malay Mohan Chakma,

And

2. Smti. Lambi Chakma,
W/O. Shri Ranachitra Chakma,

Both are residents of Baganbari, Mainama,
P.O. & P.S. Manu, Dhalai District,
Tripura.

..... <u>Claimant-Respondents</u>.

3. Shri Goutam Banik,
S/O. Lt. Upendra Banik,
C/O. Banik Brothers, A.A. Road,
Manu Bazar, P.O. & P.S. Manu,
District Dhalai, Tripura.
(Owner of Canter Truck No.TR-04-1548).

4. The Divisional Manager,
The National Insurance Company Limited,
Divisional office at Akhaura road, Agartala,
P.S.-West Agartala, District-West Tripura.
(insurer of MAX vehicle registration No.TR-01-B-3215).

..... <u>Respondent</u>.

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	: Mr. P. Gautam, Advocate.
For the respondent Nos.1 & 2	: Mr. P.B. Chakma, Advocate.
Date of hearing & judgment	: 12.02.2015.
Whether fit for reporting	: **NO**.

JUDGMENT & ORDER(ORAL)

This appeal by the Insurance Company is directed against the award dated 25-05-2009 passed by the learned Motor Accident Claims Tribunal, North Tripura, Kailashahar in case No. T.S.(MAC) 11 of 2008 whereby he awarded a sum of Rs.6,45,000/- in favour of the claimants.

2. The undisputed facts are that the deceased was an 18 year old boy. The claimants are the parents of the deceased. The learned Tribunal assessed the income of the deceased at Rs.5,000/- per month, applied a multiplier of 16 and deducted 1/3rd for the personal expenses of the deceased and accordingly calculated the compensation.

3. This Court follows two methods while assessing compensation. In those cases where the claimants are parents and the deceased was unmarried, 50% is deducted for the personal expenses of the deceased and in such eventuality, the multiplier is applied by taking into consideration the age of the deceased. In case, the multiplier is to be applied by taking into consideration the age of the claimants, then only 1/3rd should be deducted for the personal expenses of the deceased.

4. As far as the income of the deceased is concerned, the learned Tribunal relied upon a certificate issued by the Sub-Divisional Magistrate that the deceased was earning Rs.5,000/- from agriculture. There is no document on record to show what was the agriculture land. If there was any agriculture land, that

must have belonged to the parents because the deceased just at the age of 18 he could not have got agriculture land of his own. Even otherwise, this agriculture land would be inherited by the parents only and there is nothing which prevents them from cultivating the same. Therefore, the method by which the income has been assessed, in my opinion, is totally wrong. The accident took place in 2008 and at that time even a labourer would earn about Rs.100/- to Rs.120/- per day and keeping into view the future prospects and the increase in income over passage of time, I assess the income at Rs.4,500/ per month.

5. In the present case, I deduct 50% for the personal expenses of the deceased and the compensation comes to Rs.2,250/- per month or Rs.27,000/- per year. Multiplier of 18 is to be applied and, therefore, the compensation works out to **Rs.4,86,000/-**.

6. In addition thereto, the claimants are held entitled to **Rs.14,000/-** for funeral expenses, **Rs.20,000/-** for conventional damages and the mother is held entitled to **Rs.50,000/-** for the loss of her son.

Therefore, the total compensation works out to Rs.(4,86,000 + 14,000 + 20,000 + 50,000) = Rs.5,70,000/- (rupees five lakh seventy thousand).

7. The amount of compensation is apportioned as follows:

The amount payable to the father shall be limited to the amount which has already been received by him out of the amount deposited by the Insurance Company. The entire amount now to be deposited, only the mother shall be entitled to that amount.

8. In view of the above discussion, the appeal is partly allowed. The award of the learned Tribunal is modified and the compensation is reduced from Rs.6,45,000/- to Rs.5,70,000/-, i.e. by Rs.75,000/-. On the amount of compensation so awarded, the claimants shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount.

9. The Insurance Company is directed to deposit the amount which is still due and payable after deducting the amount already paid by it before the Motor Accident Claims Tribunal within 2(two) months from today. The Motor Accident Claims Tribunal shall immediately release Rs.1,00,000/- in favour of the mother and the balance amount shall be kept in a fixed deposit for 5(five) years at the first instance and the interest accruing thereupon shall be paid to the mother on quarterly basis and after 5(five) years the entire amount shall be released to her.

10. The appeal is disposed of in the aforesaid terms.

11. Send down the lower court records forthwith.

CHIEF JUSTICE