

THE HIGH COURT OF TRIPURA

A G A R T A L A

MAC App. No. 82 of 2009

Appellant :

Sri Sudhir Chandra Shil alias Sudhir Shil

S/o. Kamini Kumar Shil, Resident of
Jogendranagar, P.S. East Agartala, West
Tripura.

By Advocate :

Mr. D. Bhattacharji, Adv.

Respondents :

1. Sri Apu Ranjan Sen,

S/o. Lt. Murari mohan Sen, Resident of
Jogendranagar, P.S-East Agartala, West
Tripura. (Owner of Auto Rickshaw No. TR-
01A-1957.)

2. The Branch Manager,

New India Assurance Company Ltd.,
Agartala Branch, 4 Mantribari Road,
Agartala, P.S-West Agartala, West Tripura.
(Insurer of Auto Rickshaw No.TR-01A-
1957)

By Advocate :

Mr. P. Gautam, Adv.

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **18th March, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER(Oral)

This appeal for enhancement of compensation by the claimant is directed against the judgment and award dated 26.08.2009 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S(MAC) No.229 of 2006 whereby the Tribunal has awarded compensation

of Rs.1,52,153/- along with interest @ 6% per annum in favour of the claimant.

[2] The admitted facts are that the claimant was working as a welder and suffered injuries in a motor vehicle accident. Due to the accident he suffered injuries in his eye and loss of vision in one eye and the medical disability board has assessed the disability at 30% (permanent).

[3] I have seen the disability certificate and it clearly indicates that the claimant has lost vision in one eye. No doubt he can continue to work as a welder but there is bound to be loss of income.

[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] Applying the aforesaid principles I now proceed to assess the compensation under the different heads.

[6] The accident took place on 29.04.2006. The claimant was admitted to the I.G.M Hospital in the eye ward on the same date and was discharged on 04.05.2006 and he was referred to the Sri Sankaradeva Nethralaya, Guwahati because the hospital at Tripura could not deal with the injury. The claimant thereafter with escorts went to Sri Sankaradeva Nethralaya, Guwahati and he was admitted there on 19.05.2006 and discharged on the same day itself. He was asked to visit again on the next day and medication was prescribed. From the diagnosis it is apparent that he has lost full vision in one eye.

[7] The income of the claimant has been assessed at Rs.3500/- per month which is not disputed. The claimant has not been awarded any amount for his hospitalization at Agartala. He remained in hospital at Agartala for 6(six) days. He would have required attendants round the clock. Even if the cost of one attendant is taken at Rs.250/- per day, the cost of two attendants works out to Rs.500/- per day and for 6(six) days cost of attendants at Agartala works out to Rs.3000/-. The claimant went to Guwahati from Agartala and remained there for at least 12(twelve) days. He would have had to arrange for boarding, lodging for himself and his attendants and even conservatively taking the expenses at Rs.1000/- per day, he is awarded Rs.12,000/- for the expenses at Guwahati. Therefore, the total expenditure for treatment both at Agartala and at Guwahati works out to Rs.15,000/-.

[8] The claimant went to Guwahati by bus and he claimed only Rs.2190/- for transportation charges. It is indeed shocking that the Tribunal even did not grant him this amount on the ground that he was only entitled

to one escort. When a person is taken for treatment outside the State it is not necessary that only one escort accompany that person. Therefore, I see no reason why the full amount as claimed should not be granted. In fact, I feel that there must have been some other expenses in respect of transportation and therefore, I awarding Rs.5000/- under the head of transportation.

[9] Next come the issue on medicines. The learned Tribunal has awarded a sum of Rs.1813/- for medicinal expenses. Keeping in view the nature of injuries and the treatment I awarding Rs.5000/- under this head.

[10] As far as loss of income on account of loss of vision of one eye is concerned, the calculations made by the Tribunal and the award of Rs.1,38,600/- under this head are proper and call for no enhancement.

[11] Shockingly, the learned Tribunal has not awarded any amount for pain and suffering or for loss of amenities and future discomfort in life. The claimant remained in hospital for six days at Agartala. He then went to Guwahati. He had to remain outside the station for about 10 days along with his escorts. He is, therefore, awarded Rs.10,000/- under the head of pain and suffering.

[12] Lastly, comes the question of compensating the claimant for the permanent disability suffered by him. The claimant is blind in one eye for the rest of his life. God forbid, if anything happens to his second eye he will become totally blind. He is without vision in one eye and this can affect him in many ways, therefore, I awarding Rs.35,000/- under the head of future discomfort and loss of amenities in life.

[13] The total compensation is, therefore, assessed at Rs. (15,000/- + 5,000/- + 5,000/- + 1,38,600/- + 10,000/- + 35,000/-) = Rs.2,08,600/-. The award is accordingly enhanced from Rs.1,52,153/- to Rs.2,08,600/- i.e. by Rs.56,447/- which is rounded off to Rs.56,500/-. The claimant shall also be entitled to interest on the enhanced sum of Rs.56,500/- @ 7.5% per annum from the date of filing of the claim petition till deposit of the amount. The insurance company is directed to deposit the enhanced amount of compensation along with proportionate interest thereupon in the Registry of this Court within four months from today. Obviously, the insurance company shall be entitled to adjust the amount(s), if any, which it has already paid or deposited.

[14] The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the lower Court records forthwith.

CHIEF JUSTICE