

THE HIGH COURT OF TRIPURA

A G A R T A L A

MAC App. No. 73 of 2009

Claimant-Appellant :

Sri Hiralal Das,

S/o. Late Jaharlal Das of East Harina, P.S-
Sabroom, District- South Tripura.

By Advocate :

Ms. P. Ghatak, Adv.

Respondents :

1. Sri Piklu Bhowmik,

S/o. Lt. Nalinikanta Bhowmik of Chatakchari,
P.S. Sabroom District-South Tripura,(Owner of
TR-03-1856, Canter Truck)

2. Name of the respondent No.2 deleted as
per Hon'ble Court's Order dated 16.9.2010
passed in this Mac App.73 of 2009.

3. The Branch Manager,

Oriental Insurance Company Ltd.

Having its Branch Office at Jahar Road
(Extension), Udaipur Town , P.S-R. K. Pur,
District-South Tripura, (Insurer of TR-03-1856,
Canter Truck)

4. Sri Abinash Das,

S/o. Harendra Das, Vill-East Harina, P.O.
Harina Bazar, P.S-Sabroom, District-South
Tripura. (Owner of Commander Jeep bearing
No. TR-03-2393)

5. National Insurance Company Ltd.,

Udaipur Branch, Udaipur, Central Road
Extension, P.S-R. K. Pur, District-South Tripura,
(Insurer of Commander Jeep bearing No. TR-
03-2393).

By Advocate :

Mr. S. Lodh, Adv.

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **6th May, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation filed by the claimant is directed against the award dated 24.07.2009 passed by the learned of the Motor Accident Claims Tribunal, South Tripura, Udaipur in T.S(MAC) No.103 of 2008 whereby the Tribunal awarded compensation of Rs.80,000/- along with interest @ 9% per annum in favour of the claimant.

[2] The facts as proved on record are that the claimant suffered injuries in a motor vehicle accident which took place on 16th July, 2007. The claimant was immediately shifted to the hospital at Sabroom where the accident had taken place and since his condition was serious he was sent to the G.B.P Hospital, Agartala where he remained admitted from 17th July, 2007 to 30th July, 2007. He was again re-admitted at Agartala on 21st August, 2007 and discharged therefrom 24th August, 2007. Thereafter, the petitioner had not fully recovered and therefore, went to Kolkata where he was treated at the AMRI Hospital and remained admitted therefrom 26th August, 2007 to 28th August, 2008. There is no permanent disability. The petitioner suffered injuries on his leg which have now healed. The claimant has been awarded compensation of Rs.80,000/- under the following heads:

(i) for treatment purpose	= Rs.60,000/-
(ii) pain and suffering	= Rs. 5,000/-
(iii) Loss of income	<u>= Rs.15,000/-</u>
Total : Rs.80,000/-	

[3] The manner in which the award has been passed leaves much to be desired because the learned Tribunal has not discussed any evidence nor has given the reasons while computing the amount.

[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 as follows.

[6] From the evidence on record it is apparent that the claimant remained in hospital at Sabroom and Agartala for 19 days. Keeping in view the condition of the Govt. hospitals in the Country especially in the State of Tripura it is necessary for every indoor patient to have at least two attendants to look after him round the clock. The cost of one attendant at Agartala in the year 2007 is assessed at Rs.350/- per day. Normally this Court has been assessing the attendant charges at Rs.250/- but it has been assessed on a higher value in this case because the claimant belongs to Sabroom and obviously his attendants also had to come from Sabroom to attend upon him at Agartala. Therefore, the cost of two attendants is fixed at Rs.700/- per day and over 19 days it works out to Rs.13300/- which is rounded off to Rs.13500/-. At Kolkata the claimant had one attendant. Since in Kolkata the attendant would also have to arrange for his

boarding and lodging, the cost of attendant is assessed at Rs.1000/- per day and for 5(five) days including the two days of travel he is awarded Rs.5000/-. Therefore, the total cost of attendants comes to Rs.18,500/-.

[7] As far as medical expenses are concerned. The claimant has produced on record the receipt of the AMRI Hospital which shows that a sum of Rs.13,285/- was spent in this hospital. In addition thereto the claimant has produced vouchers for a sum of Rs.1977/- for purchase of medicines and other minor tests. The total amount comes to Rs.15262/-. I am of the view that the claimant who is a poor person may not have kept all the vouchers for the period of the treatment and, therefore, I assess the medical expenses at Rs.20,000/-.

[8] Next comes the question as to the transportation charges. The claimant went to Kolkata by air. He has produced two tickets which show that more than Rs.6000/- was spent on the travel to Kolkata. This Court can presume that a similar amount must have been spent for the return from Kolkata. In addition thereto some amounts must have been spent for bringing the patient from Sabroom to Agartala, for taking the patient from the hospital at Agartala to the Airport and then from the airport at Kolkata to the hospital and similarly on the way back. Keeping all these factors into consideration I award sum of Rs.17,500/- to the claimant for transportation expenses.

[9] The claimant was a driver. This fact is not disputed. Even in the year 2007 a driver would not be earning less than Rs.150/- per day and therefore, I assess the monthly income of the driver (claimant) is Rs.4500/-. The claimant was under treatment from 17th July, 2007 till 28th August, 2007. Thereafter he could not have just jumped out of the hospital bed and started driving a truck. Keeping in view the nature of injuries, in my view the claimant

could not have worked for at least four months and, therefore, he is awarded Rs.18,000/- for loss of income.

[10] The claimant remained in hospital for almost a period of one month and even when he was out of hospital he was obviously still under treatment. Therefore, I am of the view that he should be awarded at least Rs.20,000/- for pain and suffering.

[11] The total compensation is, therefore, assessed at Rs. (18,500/- + 20,000/- + 17,500/- + 18,000/- + 20,000/-) = Rs.94,000/-. The award is accordingly enhanced from Rs.80,000/- to Rs.94,000/ i.e. by Rs.14,000/- The claimant shall also be entitled to interest on the enhanced sum of Rs.14,000/- @ 9% 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.

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

Send down the lower Court records forthwith.

CHIEF JUSTICE