

THE HIGH COURT OF TRIPURA
A G A R T A L A

MAC APP. 70 OF 2009 & MAC APP. 71 OF 2009

IN MAC APP. NO. 70 OF 2009:

Claimant Appellant :

Shri Rakesh Saha,
S/O. Shri Dinesh Chandra Saha,
Resident of Kamar Pukurpar,
P.O. College tilla, P.S. East Agartala,
District-West Tripura.

BY ADVOCATE :

Mr. H.K. Bhowmik, Advocate.

– **Versus** –

Respondent-Opposite Parties :

1. Shri Subhankar Paul,
S/O. Ranjit Paul,
Resident of Palace Compound,
P.S. East Agartala,
District-West Tripura.
(Owner of the Vehicle No.TR-01-D
0576, Maruti Van)
2. Shri Rakesh Acharjee,
S/O. Ratan Acharjee,
Resident of Ramnagar, Road No.11/
12, P.S. West Agartala,
District-West Tripura.
(Owner of the Vehicle No.TR-01-A-
3651, TATA SUMO)
3. The United India Insurance Co. Ltd.,
Kaman Chowmuhani,
P.S. West Agartala,
District-West Tripura.
(Insurer of the Vehicle No.TR-01-
0576, Maruti Van).
4. The National Insurance Company Ltd.,
42, Akhaura Road, Agartala,
P.S. West Agartala,
District-West Tripura.
(Insurer of the Vehicle No.
TR-01-A-3651, TATA SUMO).

BY ADVOCATE :

Mr. P. Gautam, Advocate.

IN MAC APP. NO. 71 OF 2009:**Claimant Appellant :**

Shri Shiba Prasad alias Apu Das,
 S/O. Shri Ranjit Chandra Das,
 Resident of Moloynagar, Madhyapara,
 P.S. Sreenagar,
 District-West Tripura.

BY ADVOCATE :

Mr. H.K. Bhowmik, Advocate.

– **Versus** –

Respondent-Opposite Parties :

1. Shri Subhankar Paul,
 S/O. Ranjit Paul,
 Resident of Palace Compound,
 P.S. East Agartala,
 District-West Tripura.
 (Owner of the Vehicle No.TR-01-D
 0576, Maruti Van)
2. Shri Rakesh Acharjee,
 S/O. Ratan Acharjee,
 Resident of Ramnagar, Road No.11/
 12, P.S. West Agartala,
 District-West Tripura.
 (Owner of the Vehicle No.TR-01-A-
 3651, TATA SUMO)
3. The United India Insurance Co. Ltd.,
 Kaman Chowmuhani,
 P.S. West Agartala,
 District-West Tripura.
 (Insurer of the Vehicle No.TR-01-
 0576, Maruti Van).
4. The National Insurance Company Ltd.,
 42, Akhaura Road, Agartala,
 P.S. West Agartala,
 District-West Tripura.
 (Insurer of the Vehicle No.
 TR-01-A-3651, TATA SUMO).

BY ADVOCATE :

Mr. P. Gautam, Advocate.

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

Date of hearing & : 09.01.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

Both these appeals are being disposed of by a common judgment since they arise out of the same accident.

2. By means of these appeals, the claimants have challenged the award dated 04-07-2009 passed in T.S.(MAC) 757 of 2002 and T.S.(MAC) 758 of 2002 respectively whereby the learned Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala dismissed the claim petitions since the claimants had led no evidence to prove their case.

3. From the records, I find that the claim petitions were filed in the year 2002 and thereafter the Insurance Company appeared on the next day itself but no steps were taken by the claimants to serve the O.P. No.2 for a long time. Even counsel for the claimants did not appear on a number of dates and the matters were delayed on this count for a number of years. Finally, the issues were framed after five years on 26-06-2007 and the matters were fixed for evidence of the claimants on 26-06-2008. Thereafter, the matters were adjourned to 06-08-2008, 06-11-2008, 03-01-2009, 17-03-2009 and 01-06-2009. The learned Tribunal, in my view, was fully justified in not granting further time. However, keeping in view the fact that the claimants are poor illiterate persons, I feel that they should not suffer and should not

be deprived of the compensation which may otherwise be due to them.

4. Therefore, in the interest of justice, one more opportunity is given to the claimants to lead their evidence. It is made clear that only one opportunity shall be granted and no more. The parties who are present are directed to appear before the learned Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala on 11-02-2015 on which date notice shall be issued to respondent No.2 and it shall be the responsibility of the claimants to ensure that the respondent No.2 is served. In case, the claimants fail to serve respondent No.2, then the claim petitions shall be rejected. After respondent No.2 is served, the learned Tribunal shall give one opportunity only to the claimants to lead their evidence. It is made clear that if the claimants do not lead evidence on the first opportunity, then no further opportunity shall be granted and natural consequences will follow. In case, the claimants lead evidence and finally the claim petitions are decided in their favour, while awarding interest the Tribunal shall take into consideration the fact that the claim petitions have been pending for such a long time due to the negligence of the claimants.

5. With these observations, the appeals stand disposed of.

6. Send down the lower court records forthwith.

CHIEF JUSTICE