

THE HIGH COURT OF TRIPURA
AGARTALA

MAC App. No. 94 of 2009

Claimant-Petitioner-Appellants :

- 1. Smti Arati Ghosh,**
W/o. Lt. Gour Das Ghosh.
- 2. Sri Utpal Ghosh,**
S/o. Lt. Gour Das Ghosh,
Both are resident of Village-North Banamalipur,
P.S-East Agartala, District-West Tripura.

By Advocate :

None.

Opposite Party-Respondents :

- 1. Sri Pradip Das,**
S/o. Sri Subhash Ch. Das, 79 Tilla, Agartala,
District-West Tripura.
(Owner of the vehicle No.TR-01-A-3700, Auto
Rickshaw)
- 2. Divisional Manager,**
National Insurance Company Ltd., 42 Akhaura
Road, Agartala, West Tripura,
Represented by its Branch Manager(Insurer of
the vehicle No. TR-01-A-3700, Auto Rickshaw).

By Advocate :

Mr. K. Bhattacharji, 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)

On 28th January, 2015 Sri S. K. Dutta was not present and it was stated that he was unwell. Thereafter on 19th February, 2015 again Sri S. K. Dutta was stated to be out of station. Since the appeal is of the year 2009 and

none has appeared for the appellant again today, I proceed to decide the appeal on merits.

[2] This appeal for enhancement of compensation is directed against the award dated 20.08.2009 passed by the learned of the Motor Accident Claims Tribunal, West Tripura, Agartala in T.S(MAC) No.218 of 2005 whereby the Tribunal awarded compensation of Rs.4,34,000/- along with interest @ 6% per annum in favour of the claimants.

[3] The only question in this case is with regard to the amount of compensation.

[4] The admitted facts are that the deceased was 24 years old. The claimants are his mother and brother. I am of the view that the mother alone is entitled to compensation and the brother is not entitled to any compensation. The brother was 25 years old at the time of accident. He was an able bodied person and cannot be said to be dependent on the deceased.

[5] As far as this Court is concerned, this Court has been following two methods while assessing compensation when the deceased is a bachelor and the claimants are parents. Either 50% deduction is made for the personal expenses of the deceased in which case the multiplier is applied by taking into consideration the age of the deceased. The other method is that only $\frac{1}{3rd}$ is deducted for the personal expenses of the deceased in which event the multiplier is applied by taking into consideration the age of the parents. Whatever method is applied the compensation works out approximately to be the same.

[6] In this case the learned Tribunal assessed the income of the deceased at Rs.4500/- per month. Keeping in view the future prospects, I assess

the income of the deceased at Rs.6000/- per month and 50% is deducted for the personal expenses of the deceased. Since 50% has been deducted, the multiplier will have to be applied by taking into consideration the age of the deceased. As the deceased at the time of accident was aged only 24 years the compensation works out to $\text{Rs.}3000 \times 12 \times 17 = \text{Rs.}6,12,000/-$. In addition thereto, the mother is held entitled to Rs.50,000/- for loss of affection of her son and another Rs.10,000/- for funeral expenses.

[7] The total compensation is, therefore, assessed at Rs. (6,12,000/- + 50,000/- + 10,500/-) = Rs.6,72,000/-. The award is accordingly enhanced from Rs.4,34,000/- to Rs.6,72,000/- i.e. by Rs.2,38,000/-. The insurance company has already satisfied the award of the learned Tribunal and, therefore , it is liable to pay the enhanced amount Rs.2,38,000/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till payment/ deposit of the same in the Registry of this Court within four months from today.

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

Send down the lower Court records forthwith.

CHIEF JUSTICE