

THE HIGH COURT OF TRIPURA

AGARTALA

MAC App. No. 59 of 2010

Appellant :

Sri Uttam Bhowmik,
S/o. Makhan Chandra Bhowmik,
Village-Purathal Rajnagar, P.S: Bishalghar,
District-West Tripura.

By Advocate :

Mr. T. D. Majumder, Adv.

Respondents :

1. Sri Makhan Deb Nath,
S/o. Sri Hemanta Debnath,
Village-Hrishyamukh, P.S-Belonia, District-South
Tripura,(Owner of which No.TR-03-3446,
Commander Jeep).

2. M/s. National Insurance Co. Ltd.
(Represented by its Manager, Agartala Branch of
National Insurance Co. Ltd. Having its office at
Akhaura Road, Agartala, West Tripura.)

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 April, 2015.**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER(Oral)

This appeal for enhancement of compensation is directed against the award dated 03.11.20098 delivered by the learned Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in T.S(MAC) No.90 of 2007 whereby the Tribunal awarded compensation of Rs.41,364/- along with interest @ 6% per annum to the claimant under the following heads:

- | | |
|------------------------|---------------|
| (i) Pain and suffering | = Rs.10,000/- |
| (ii) Loss of earnings | = Rs.18,000/- |

(iv) Medical expenses	= Rs. 2,964/-
(v) Transportation Charges	= Rs. 6,400/-
(vi) Incidental charges	<u>= Rs. 4,000/-</u>
Total : Rs.41,364/-	

[2] The admitted facts are that the claimant suffered a fracture and due to the injury received he remained admitted in hospital from 15.02.2005 to 28.02.2005 i.e. for 13(thirteen) days. In a Government hospitals a patient requires two attendants round the clock and taking the cost of one attendant at Rs.250/- per day the cost of two attendants comes to Rs.500/- per day and for 13 days the cost of attendants works out to Rs.6500/-.

[3] Next comes the question of the income of the claimant. He was a labourer working under a contractor. He claimed that he was earning Rs.150/- per day. In the absence of any proof the income has been taken at only Rs.100/- per day. I am of the considered view that even in the year 2005 a labourer could not earn less than Rs.150/- per day and taking the income would be Rs.4500/- per month and the loss for the six months he is awarded Rs.27,000/- under this head.

[4] Coming to the cost of medication. The learned Tribunal has only awarded a sum of Rs.2964/- as per the vouchers and Rs.4000/- for incidental charges. In my view both can be clubbed together and a total sum of Rs.10,000/- is awarded jointly for medical purposes.

[5] The claim for vehicle charges appears to be reasonable and the same is assessed at Rs.6500/-.

[6] Coming to the issue of non pecuniary damages i.e. for pain and suffering in all, I feel that Rs.10,000/- awarded is just and reasonable calling for no enhancement.

[7] The total compensation is, therefore, assessed at Rs. (6,500/- + 27,000/- + 10,000/- + 6,500/- + 10,000/-) = Rs.60,000/-. The award is accordingly enhanced from Rs.41,364/- to Rs.60,000/- i.e. by Rs.18,636/- which is rounded off to Rs.19,000/-.The claimant shall also be entitled to interest on the enhanced sum of Rs.19,000/- @ 6% 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.

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

Send down the LCRs forthwith.

CHIEF JUSTICE