

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. 66 of 2009

Smt. Priya Bala Debnath,
Wife of late Bhaba Ranjan Debnath,
A Resident of Betaga Nath Colony,
P.O. Betaga, P.S. Shantir Bazar,
South Tripura District.

..... *Appellant*

- Vs. -

1. Shri Pranjit Ball,
Son of Shri Nitai Pada Ball,
A Resident of Village South Sreenagar,
P.O. Sreenagar, P.S. Sabroom,
District – South Tripura.
(Owner of the vehicle No. TR-03-3235 Auto Rickshaw)
2. Shri Krishna Debnath,
Son of Shri Swapan Debnath,
A Resident of Village – West Jalefa,
P.S. Sabroom, District – South Tripura.
(Driver of the vehicle No TR-03-3235 Auto Rickshaw)
3. The Branch Manager
The Oriental Insurance Company Ltd.,
Udaipur Branch,
P.O. & P.S. R.K. Pur, District – South Tripura.
(Insurer of the Vehicle TR-03-3235 Auto Rickshaw)

..... *Respondents.*

BEFORE

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. A. Dasgupta, Advocate.

For the respondent : Mr. P. Debnath, Advocate.
No.3.

Date of hearing & : 07.01.2015.
delivery of
Judgment & order.

Whether fit for : NO.
reporting

JUDGMENT & ORDER (ORAL)

This appeal by the claimant for enhancement of compensation is directed against the award dated 30th April, 2009 passed by the learned Motor Accident Claims Tribunal, Belonia, South Tripura in Title Suit (MAC) No. 02 of 2009 whereby he awarded a sum of Rs. 52,000/- only as compensation to the claimant-mother for the loss of her 26 years old young son.

2. The only question which is raised is what is the just compensation to which the claimant was entitled to?

3. To decide this question, it would be necessary to ascertain the income of the deceased. The claimant alleged that her son who was 26 years old was working as a plumber-cum-tube well mechanic. A certificate issued by Shri Basudeb Majumder, Member, Tripura Legislative Assembly, Agartala has been filed to the effect that the monthly income of Biswajit Debnath, the deceased was Rs. 6,000/- per month. Surprisingly, Biswajit Debnath had died on 23rd January, 2007. This certificate has been issued on 2nd September, 2008 and the certificate has been issued showing Biswajit Debnath to be alive. It is certified that Biswajit Debnath, S/O Late Bhaba Ranjan Debnath, Village Nath Colony has been permanently residing at the aforesaid address since 2000 A.D. and he belongs to Scheduled Cast/Scheduled Tribe/O.B.C. His monthly income from all source is Rs. 6,000/- per month. The

manner in which the certificate has been issued leaves much to be desired. The member of the Legislative Assembly should at least have noted that Biswajit Debnath was dead. Furthermore, I fail to understand how a member of the Legislative Assembly can assess the income of a person who is a voter in his constituency. There are no means for the Member of the Legislative Assembly to assess such income and the Tribunal was absolutely right in discarding the certificate because this certificate cannot be taken into consideration while assessing the income of the deceased.

4. Having held so, the fact remains that the deceased was aged 26 years old. The claimant had appeared in the witness box had filed her affidavit. It is stated that he was Madhyamik passed and used to work as a plumber-cum-tube well mechanic. This fact has also been supported by the other witnesses of the claimant. Therefore, though the income may not be proved on the basis of the certificate it can be accepted that the deceased was working as a plumber-cum-tube well mechanic. The accident took place in the year 2007 and even at that time such a person would not earn less than 150/- rupees per day. Therefore, I assess the income at Rs.4,500/- per month.

5. Now comes the question as to what is the loss to the mother. The age of the mother has been taken to be 60 years by the Tribunal. This is also not correct because her age was 60 years

on the date which she swore the affidavit and therefore, at the time of the accident she was about 58 years old i.e. between the ages of 55-60 years. The compensation has to be assessed accordingly.

6. In the case of death of bachelor, this Court is following two systems. Either one-third is deducted for the personal expenses of the deceased in which case multiplier is applied by taken into consideration the age of the claimant and otherwise 50% is directed for the personal expenses of the deceased and then the multiplier is applied by taken into consideration the age of the deceased. In the present case, I deduct one-third i.e. Rs.1500/- for the personal expenses of the deceased assessed the monthly contribution to the family at Rs.3,000/- per month or Rs.36,000/- per year. Since the claimant was aged between 55-60 years the multiplier in accordance with ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*** would be 9 and the compensation works out to Rs.3,24,000/-. The claimant shall also be entitled to Rs.16,000/- for funeral and other allied expenses. The claimant being the mother has lost her only son and she is awarded Rs. 50,000/- for loss of her son. Therefore, the total compensation works out to Rs.3,90,000/- (Rupees Three lakh ninety thousand). On this amount, the claimant shall be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment of the

amount. Since the insurance company has already deposited Rs.54,616/-, it is directed to pay the balance amount of Rs.3,35,384/- within 12 (twelve) weeks from today in the Registry of this Court.

7. Out of the enhanced amount so awarded, a sum of Rs.1,00,000/- shall be released in favour of the claimant by remitting it to her personal Bank Account details whereof along with photocopy of the first page of the passbook be submitted in the Registry of this Court within 4(four) weeks from today and the balance amount shall be kept in a fixed deposit and the interest shall be released to her on quarterly basis for a period of 5 years. After the 5 years are complete then she will get the entire amount. No application shall be required to be filed for this purpose.

8. The appeal is disposed of in the aforesaid terms. Send down the LCRs forthwith.

CHIEF JUSTICE

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