

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.79 of 2009

The National Insurance Company Ltd.,
Represented by its Divisional Manager,
Divisional office, 42, Akhaura Road,
Agartala, West Tripura.
(Insurer of Vehicle No.TR-03-1256 Mini Bus).

..... *Appellant.*

- Vs -

1. Shri Ravindra Singh Chouphal,
S/o Shri Lal Singh Chouphal,
54 Bn. of CRPF, PS - Agartala Airport,
West Tripura District.
2. Shri Parimal Debnath,
S/o Shri Satish Ch. Debnath
Resident of Vill. Bagbasa,
P.S. R. K. Pur, South Tripura Dist.
(Owner of vehicle No.TR-03-1256 Mini Bus)

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	: Mr. P Gautam, Advocate.
For the respondents	: Ms. R Purkayastha, Advocate
Date of hearing and delivery of judgment	: 14.01.2015
Whether fit for reporting	: No.

JUDGMENT & ORDER (ORAL)

This appeal by the appellant insurance company is
directed against the award, dated 4th May, 2009 passed by the

learned Motor Accident Claims Tribunal, West Tripura, Agartala in Case No.TS(MAC)275 of 2005 whereby the learned Tribunal awarded compensation of Rs.80,000/- in favour of the claimant.

2. The main ground raised by Mr. P Gautam, learned counsel for the appellant insurance company, is that the accident was a case of *head on collision* between two vehicles one of which belonged to the Central Reserve Police Force (C.R.P.F) in which the claimant was travelled. He submits that neither the C.R.P.F nor the driver of C.R.P.F vehicle was made a party and furthermore, since the accident was a case of *head on collision* between two vehicles, the learned trial Court should have held the driver of the C.R.P.F vehicle guilty of contributory negligence.

3. To say the least, the argument is wholly without force and totally misconceived. I have gone through the record of the trial Court and I find that issues were framed on 04.12.2007 and thereafter the parties were given a number of opportunities to lead evidence. The claimant led evidence but the insurance company submitted no evidence. Even the owner of the vehicle did not submit any evidence.

4. The claimant in his statement filed by way of affidavit stated that the accident occurred due to rash and negligent driving of Mini Bus No.TR-03-1256. There is no cross-examination by the

insurance company with regard to this allegation and the only question put to this witness in cross-examination by the insurance company was that he did not spend a sum of Rs.1,00,000/- for his treatment and that his claim is excessive.

5. The insurance company was represented by a lawyer and they had not even confronted the claimant with the stand which now they have taken in the appeal. Therefore, I find no merit in the appeal and since this appeal has been filed on a ground which was not taken before the trial Court the same is dismissed with costs assessed at ***Rs.2,000/- (Rupees two thousand)***.

Send down the LCRs forthwith.

CHIEF JUSTICE

Sukhendu