

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

MAC App. No. 93 of 2009

Appellant :

The United India Insurance Co. Ltd.
Represented by its Divisional Manager,
Divisional Office, Ganaraj Chowmuhani, PS-
East Agartala, West Tripura District.
(Insurer of Truck Vehicle No.AS-25-B-9005)

By Advocate :

Mr. P. Gautam, Adv.

Claimant-Respondents :

- 1. Smt. Anamika Chakma,**
W/o. Lt. Subhash Chakma.
- 2. Sri Sanchin Sekhar Chakma,**
S/o. Lt. Subhash Chakma.
- 3. Sri Saurav Chakma,**
S/o. Lt. Subhash Chakma.
- 4. Sri Jonit Chakma,**
S/o. Lt. Subhash Chakma,
(Claimant respondent Nos. 2, 3 and 4 being
minor sons of the deceased Subhash
Chakma are represented by their mother
claimant-respondent No.1)
- 5. Smt. Indrasashi Chakma,**
W/o. Sri Tajendra Lal Chakma.
- 6. Sri Tajendra Lal Chakma,**
S/o. Late Kalya Karbari Chakma,

All are residents of vill. Andar Cherra, P.O &
P.S. Pecharthal, North Tripura, Presently all
are residing at Agartala, C/o. Smt.
Juganaya Chakma, Ganaraj Chowmuhani,
P.S. East Agartala, Agartala, West Tripura
Dist.

By Advocate :

Mr. A. Das, Adv.
Mr. H. K. Bhowmik, Adv.
Mr. P. B. Chakma, Adv.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **12th February, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

This appeal by the insurance company is directed against the award dated 22.06.2009 whereby the learned Tribunal assessed the compensation at Rs.7,99,064/- but held the insurance company liable to pay only 50% of the amount i.e. Rs.3,99,532/- on the ground that the deceased was held negligent and contributed to the accident.

[2] The only issue raised in this appeal is that according to Mr. Gautam, learned counsel for the insurance company the deceased was wholly responsible for the accident and there was no negligence on the part of the driver of the truck insured with the insurance company since the truck was in a stationary condition.

[3] The case set up by the claimant is that the deceased was driving a motor cycle and a truck was going ahead. One shopkeeper gave a signal to the driver of the truck to stop the vehicle because he wanted to pass some message to the truck driver. The truck driver stopped the vehicle suddenly without giving any warning and, therefore, the motor cycle struck against the truck in question. The claimants have examined one witness, Mr. Bir Kumar Chakma who was the pillion rider on the motor cycle and he has supported the version of the claimants.

[4] Sri Gautam has relied upon the FIR which has been filed in which it is stated that the truck had been stopped and was standing on one side of the road. The insurance company did not choose to lead evidence. The insurance companies are powerful corporations having lot of money at their command. I do not see any reason why if evidence is available they should not summon the necessary evidence. In case they choose not to call

the necessary witnesses to support their case then adverse inference has to be drawn against them. Neither the driver of the truck was summoned nor the person who lodged the FIR was summoned to prove the contents of the FIR. Therefore, the decision of the learned Court below, in my opinion is fully justified and hence I find no merit in the appeal which is accordingly dismissed.

No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE