

**THE HIGH COURT OF TRIPURA
AGARTALA**

CRP No.90 of 2010

The Oriental Insurance Company Limited,
Represented by its Senior Divisional Manager,
Divisional Office, Central Road, Kaman Chowmuhani,
P.S. West Agartala, West Tripura District
(Insurer of Auto Rickshaw No.TR-01-A-3664)

.....**Petitioner**

- Vs -

1. Shri Rajesh Deb,
son of Shri Sudhir Deb,
Resident of P.O. & Village – Jogendranagar, Maha Sakti Road,
P.S. East Agartala, West Tripura District

.....**Claimant-Respondent**

2. Shri Pranab Dhar,
son of late Ramesh Ch. Dhar,
Resident of P.O. & Village – Renters' Colony, Jogendranagar,
P.S. East Agartala, West Tripura District
(Owner and Driver of Auto Rickshaw No.TR-01-A-3664)

.....**Owner-Respondent**

**B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the petitioner	: Mr. P. Gautam, Advocate
For the respondent No.1	: Mr. D. R. Choudhury, Advocate
For the respondent No.2	: Mr. P. Chakraborty, Advocate
Date of hearing and delivery of Judgment and order	: 22.01.2015
Whether fit for reporting	: NO

Judgment and Order (Oral)

Heard Mr. P. Gautam, learned counsel appearing for the petitioner as well as Mr. D. R. Choudhury, learned counsel appearing for the respondent No.1 and Mr. P. Chakraborty, learned counsel appearing for the respondent No. 2.

02. This is a petition filed under Article 227 of the Constitution of India questioning the legality of the order dated 19.12.2009 passed by the Motor Accident Claims Tribunal, West Tripura, Agartala, Court No.2 in Misc. Case No.269 of 2006 allowing the review petition filed by the respondent No.2.

03. The grievance of the petitioner, Oriental Insurance Corporation Ltd. is that the Motor Accident Claims Tribunal, West Tripura, Agartala, Court No.2 was directed by this Court by the Judgment and Order dated 05.06.2009 delivered in W.P.(C) No.76 of 2008 to review the judgment and award dated 22.11.2006 passed in TS (MAC) No.277 of 2004 in the light of the observation made in the said judgment and order.

04. Mr. P. Gautam, learned counsel for the petitioner has submitted that the petitioner was not even given any opportunity of making his submission. Even no notice fixing the date of hearing was given to them. The learned counsel appearing for the respondents have fairly conceded to that fact.

05. For dispelling any confusion in future, the operative part of the said Judgment and Order dated 05.06.2009 delivered in W.P.(C) No.76 of 2008 is extracted hereunder.

"For the foregoing reasons, this Court is of the view that learned Member, Claims Tribunal committed an error by not allowing the review application of the petitioner. Hence, the impugned order dated 08.10.2007 is required to be set aside. Accordingly, the same is set aside. Learned Member, Motor Accident Claims Tribunal, is directed to review the judgment and award dated 22.11.2006 passed in T.S. (MAC) No.277/04 in the light of the observations made herein above. Learned Member, Claims Tribunal should have

restored the review petition of the petitioner and decide the same afresh.”

06. Since there is no disconcerting submission as regards the grievance as expressed in this petition, this Court is of the view that the impugned order be interfered with. Accordingly, the said order dated 19.12.2009 passed in Civil Misc. No.269 of 2006 is interfered with and set aside. The matter is remitted back for hearing afresh in the light of the observation made in the judgment and order dated 05.06.2009. The parties are directed to appear before the Motor Accident Claims Tribunal, West Tripura, Agartala, Court No.2 on 19.02.2015. On that day, the tribunal shall fix a date for hearing.

07. Considering the long pendency of the review petition, it is directed that the Tribunal shall make all endeavours to dispose of the matter within 3 months from the day of first appearance of the parties i.e. 19.02.2015.

With this observation and direction, this petition stands disposed of.

The Registry is directed to immediately transmit the record to the Tribunal with a copy of this order.

JUDGE

MB