

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP.78 of 2010
along with MAC APP.2 of 2011

A) MAC APP.78 of 2010.

Smt. Sova Rani Chakraborty,
W/o Lt. Nani Gopal Chakraborty,
Resident of Town Rajarbag,
P.O + P.S. R K Pur, Udaipur,
Udaipur, South Tripura.

..... Appellant.

– *Versus* –

- 1. Sri Siddhartha Sankar Roy,**
S/o Shri Gopal Roy,
Resident of Surjyamaninagar,
P.S - Amtali, District - West Tripura
(Owner of the vehicle bearing No.TR-01-A-1484, Bus).
- 2. Shri Khokan Banik,**
S/o Lt. Abani Mohan Banik,
Resident of Adarsha para
P.S - Amtali, District - West Tripura.
(Driver of the vehicle bearing No.TR-01-A-1484, Bus).
- 3. The New India Assurance Company Ltd.,**
Represented by the Branch Manager,
Agartala Branch, 4 Mantribari Road,
Agartala, West Tripura,
(Insurer of the vehicle bearing No.TR-01-A-1484, Bus).

..... Respondents.

B) MAC APP. 2 of 2011

- 1. Smt. Kalpana Roy (Chakraborty)**
W/o Late Shyamalendu Chakraborty
Resident of Town Rajarbag,
P.O + P.S. - R. K. Pur,
Udaipur, South Tripura.
- 2. Smt. Sova Rani Chakraborty,**
W/o Lt. Nanigopal Chakraborty,
Resident of Town Rajarbag,
P.S. R K Pur, Udaipur,
Dist : Gomati, Tripura.

..... Appellants.

– *Versus* –

1. **Sri Siddhartha Sankar Roy,**
S/o Shri Gopal Roy,
Resident of Surjyamaninagar,
P.S - Amtali, District - West Tripura
(Owner of the vehicle bearing No.TR-01-A-1484, Bus).
2. **The New India Assurance Company Ltd.,**
Represented by the Branch Manager,
Agartala Branch, 4 Mantribari Road,
Agartala, West Tripura,
(Insurer of the vehicle bearing No.TR-01-A-1484, Bus).

..... Respondents.

_B_E_F_O_R_E_

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellants : Ms. S Deb Gupta, Advocate.
For the respondents : Mr. A Gon Choudhury, Advocate,
Mr. M K Roy, Advocate.
Date of hearing & Judgment : 17.03.2015.
Whether fit for reporting : No.

JUDGMENT & ORDER (ORAL)

These two appeals are being disposed of by a common judgment since they both are directed against the award dated 15th May, 2010 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in Case Nos.T.S.(MAC) 342 and 343 of 2008 whereby he assessed the compensation at Rs.5,65,000/- in favour of the claimants.

2. The deceased was earning Rs.6,250/- per month. He was 52 years old. The learned Tribunal following the judgment passed in **Sarla Verma's** case deducted one third for the personal expenses of the deceased and assessed the compensation at Rs.5,50,000/-.

Rs.10,000/- was awarded to the widow for loss of consortium and Rs.5,000/- was awarded as funeral expenses.

3. As far as the loss of dependency is concerned, the calculations are absolutely correct. It is urged by Ms. S Deb Gupta that future prospects shall not be taken into consideration. Both in *Sarla Verma's* case as well as in latter judgments it has been held that the loss of future prospects are to be taken into consideration only where the deceased is less than 50 years of age. However, I am of the view that the award of Rs.10,000/- for loss of consortium is on the lower side and this should be enhanced to **Rs.50,000/-**. Similarly the amount of Rs.5,000/- awarded for funeral expenses is also on the lower side and this should be enhanced to **Rs.10,000/-**.

4. In view of the above discussion, the award of the learned Tribunal is modified and the compensation is enhanced by Rs.45,000/- i.e. from Rs.5,65,000/- to Rs.6,10,000/- and the entire awarded enhanced amount since most of it is paid on account of loss of consortium has to be paid to the widow(Smt. Kalpana Roy(Chakraborty) only and nothing will be paid to the mother.

5. The claimant widow shall also be entitled to interest on the enhanced sum of Rs.45,000/- @ 7.5% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount. It appears that the insurance company has already satisfied the awarded amount and, therefore, the insurance company is

directed to deposit the enhanced amount of compensation along with proportionate interest thereupon in the Registry of this Court within 4(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. Therefore, the appeal of the widow is allowed to the limited extent but the appeal of the mother is rejected.

Send down the LCRs forthwith.

CHIEF JUSTICE