

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.80 of 2010

United India Insurance Company Ltd.
Represented by its Divisional Manager,
Ganaraj Choumuhani, Agartala, West Tripura.

..... *Appellant.*

- Vs -

- 1. Smt. Bindu Das,**
W/o Late Ranjit Das,
C/o Shri Pijush Kanti Das,
S/o Shri Kumud Behari Das,
Vill - Town Bordwali, Forest Range Office,
P.S. West Agartala, District - West Tripura.
- 2. Shri Sudhangshu Ranjan Datta Choudhury,**
S/o Late Jamini Mohan Datta Choudhury of P.W.D Road,
P.O & P.S Kailashahar, District - North Tripura.
(Owner of vehicle No.TR-02-A-0402 Maruti Van).
- 3. Shri Rupeswar Sharma,**
S/o Shri Indraswar Sharma,
Vill - Jalai, P.S. Kailashahar,
District - North Tripura,
(Driver of TR-02-A-0402 Maruti Van).
- 4. Shri Sudhangshu Roy,**
S/o Late Santanu Roy of Maharajganj Bazar (Khanna market),
P.S. West Agartala, District - West Tripura
(Owner of vehicle No.TR-01-D-1659 Truck).
- 5. Shri Khokan Biswas**
Vill & P.O. Moharcherra, P.S. Teliamura,
District - West Tripura (Driver of vehicle No.TR-01-D-1659,
Truck).

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : None.
For the respondents : None.
Date of hearing and
delivery of judgment : 29.5.2015.
Whether fit for reporting : No.

JUDGMENT & ORDER(ORAL)

Yesterday when this case was called none had appeared for the appellant and it was ordered that the case shall be listed today and again if nobody is present for the insurance company the appeal shall be heard and disposed of on merits. Today also none is present.

2. Briefly stated the facts of the case are that the claimant filed a claim petition claiming that her husband was travelling in 'Maruti Van' bearing Registration No.TR-02-A-0402 which met with an accident due to the rash and negligent driving of the said vehicle. According to the claimant, the Maruti Van dashed into a stationary 'Truck' bearing Registration No.TR-01-D-1659. The deceased was taken to various hospitals both inside the state of Tripura and also to Calcutta. Unfortunately, the husband died at Calcutta and thereafter the dead body had to be flown to Agartala for the funeral rites. The learned Tribunal awarded total compensation of Rs.4,92,882/-.

3. This appeal has been filed by the insurance company of the Maruti Van and the main ground which has been raised is that

since the deceased was travelling as a passenger in the vehicle the insurance company is not liable.

4. I have gone through the policy and the policy is a package policy of a private car. It does not in any manner indicate that the insurance company is not liable in respect of passengers being carried in this private car. In fact the policy contains a clause that the company will indemnify the insured in respect of an accident caused by or arising out of the use of the vehicle against all sums which the insured shall become liable to pay in respect of death or bodily injury to any person including occupants carried in the vehicle (provided such occupants are not carried for hire or reward).

5. Therefore, the policy specifically covers the liability in respect of gratuitous passengers. There is no evidence worth the name that the deceased had paid any fare for travelling in the vehicle. As such I find no merit in the appeal which is, accordingly, dismissed.

Send down the LCRs forthwith.

CHIEF JUSTICE