

**THE HIGH COURT OF TRIPURA
AGARTALA**

CRP No.18 of 2010

The Branch Manager,
through the Divisional Manager,
National Insurance Company Limited,
Akhaura Road, Agartala,
West Tripura District
(Insurer of AS-01-AC/6425 – Oil Tanker)

.....**Petitioner**

– Vs –

1. Shri Dipu Das,
son of late Dinesh Das,
2. Smti. Sabita Rani Das,
wife of Shri Dipu Das,
- Both are residents of Village – Purba Bazari Gool,
P.S. – Patharkandi, District – Karimganj, Assam.
At present residing at
C/o. Shri Gopal Das,
Resident of Village – Rajbari,
P.O. & P.S. – Dharmanagar,
District – North Tripura.
3. The Manager,
M/s. Purna Petroleum Agency
Bishramganj Bazar,
P.O. and P.S. – Bishramganj,
District – West Tripura
(Owner of AS-01-AC-6425 – Oil Tanker)
4. Shri Manoj Baidya,
son of Upendra Baidya,
C/o. Shri Bidhu Bhusan Das,
Resident of village – South Nayapara,
(near Shmashal Kalibari)
PO & PS - Dharmanagar, District – North Tripura.
(Driver of AS-01-AC-6425 – Oil Tanker)

.....**Respondents**

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

For the petitioner : Mr. A. Lodh, Advocate

For the respondent Nos.1 & 2: Mr. A. Das Gupta, Advocate

For the respondent Nos.3 & 4: Mr. R. Datta, Advocate

Date of hearing and delivery of Judgment and order : **13.01.2015**

Whether fit for reporting : **NO**

Judgment and Order (Oral)

Heard Mr. A. Lodh, learned counsel appearing for the petitioner as well as Mr. A. Das Gupta, learned counsel appearing for the respondent Nos.1 and 2, and Mr. R. Datta, learned counsel appearing for the respondent Nos.3 and 4.

02. This petition under Article 227 of the Constitution of India has been filed for questioning the legality of the judgment and award dated 29.04.2009 delivered in TS(MAC) No.57 of 2008 by the Motor Accident Claims Tribunal, North Tripura, Dharmanagar.

03. According to Mr. Lodh, learned counsel for the petitioner that while passing the said award the deduction as made by the Tribunal at 1/3rd is not tenable in view of the judgment of the apex court in ***Sarla Verma and Ors. Vs. Delhi Transport Corporation and Anr.*** reported in **(2009) 6 SCC 121**.

04. From the other side, Mr. A. Das Gupta, learned counsel appearing for the respondent Nos.1 and 2, the claimants has raised a jurisprudential objection as to maintainability of this petition in view of ***Sadhana Lodh Vs. National Insurance Company Ltd.*** reported in **(2003) 3 SCC 524** where the apex court has enunciated as under:

"The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court or Tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an Appellate Court or the Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or Tribunal purports to have passed the order or to correct errors of law in the decision."

05. In response to that jurisprudential objection, Mr. Lodh, learned counsel appearing for the petitioner has submitted that the insurance company at that time had no right to prefer appeal under Section 173 of the M. V. Act, 1988 save and except on the limited ground as provided under Section 149(2) of the M. V. Act, 1988. Only after ***United India Insurance Co. Ltd. Vs. Shila Datta*** reported in ***(2011)10 SCC 509*** the insurance company got an extended right to file appeal against the judgment of the tribunal.

06. Mr. R. Datta, learned counsel appearing for the respondent Nos.3 and 4 has submitted that this Court may not exercise its supervisory power under Article 227 of the Constitution of India as there is no jurisdictional defect in the judgment. He has further submitted that as the submission as regards the deduction based on ***Sarla Verma Vs. Delhi Transport Corporation Ltd.,*** which is a subsequent decision is concerned no review or reweighing of the judgment is called for on such premises.

07. This Court has scrutinized the impugned judgment and award and does not find any infirmity calling for interference from this Court under Article 227 of the Constitution of India. Accordingly,

this petition stands dismissed. The petitioner is directed to pay the remaining part of the compensation as determined by the impugned judgment and award within a period of two months from today in the Tribunal. The respondent Nos.1 and 2 shall be at liberty to receive the award in equal share on proper identification. There shall be no order as to costs.

JUDGE

MB