

THE HIGH COURT OF TRIPURA

A G A R T A L A

MAC App. No. 44 of 2009

Claimant-Appellants :

1. Md. Mabasher Ali,

S/o.Md. Asab Ali, resident of Sultanpur, P.S-
Kailashahar, North Tripura District.

2. Md. Rajib Ali,

S/o. Md. Asab Ali, Resident of Sultanpur, P.S-
Kailashahar, District- North Tripura.

By Advocates :

Mr. S. Bhattacharji, Adv.

Mr. K. Nath, Adv.

Respondents :

1. Shri Rakesh Sinha,

S/o.Sri Ramani Mohan Sinha, Resident of North
Goldharpur, P.S- Kailashahar, North Tripura.

2. Shri Pranoy Kumar Deb @ Pradyut Deb

Resident of Durganagar, P.S- Kailashahar,
District- North Tripura.

(Driver of TRL-907, Truck)

3. Shri Ramani Mohan Sinha,

S/o. Shri Gopal Sinha of North Guldharpur, P.S.
Kailashahar, North Tripura,
(owner of TR-02-9650, Motor Cycle).

4. The National Insurance Company Ltd.

Represented by its Divisional Manager,
Registered Office at 3, Middleeton Streed,
Kolkata-700071.

Branch Office at Akhaura Road, Agartala, West
Tripura.

By Advocate :

Mr. Sekhar Dutta, Adv.

Mr. P. Gautam, Adv.

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &

Judgment & Order

: **10th February, 2015.**

Whether fit for reporting :

Yes	No

JUDGMENT & ORDER (ORAL)

This appeal by the owner of the vehicle is directed against the award dated 25.02.2009 passed by the learned Motor Accident Claims Tribunal, North Tripura, Kailashahar in T.S(MAC) No. 23 of 2007 whereby the Tribunal awarded a sum of Rs.2,70,836/- along with interest @ 6% per annum to the claimants under the following heads:

(i) Pain and suffering	= Rs. 50,000/-
(ii) Loss of future income	= Rs.1,00,000/-
(iii) Medical expenses	= Rs.1,20,836/-
Total : Rs.2,70,836/-	

[2] It has been urged by Sri. S. Bhattacharjee, learned counsel for the appellants that the manner in which award has been made is totally unreasonable. No reasons have been given as to why the claimant has been awarded Rs.50,000/- for pain and suffering and no reasons have been given while assessing the compensation at Rs.1,00,000/- for loss of future income.

[3] It is true as contended by Sri Bhattacharjee that the award is totally devoid of any reasoning whatsoever. Having held so, I am clearly of the view that the amount of compensation awarded is in fact on the lower side and therefore, the appeal is bound to be dismissed.

[4] The facts as revealed from the record are that the claimant met with the accident on 22.04.2006. He was taken to the R.G.M. Hospital at Kailashahar and thereafter he went to the South City Hospital, Silchar in Assam. He remained admitted in the hospital from 22.04.2006 till 25.06.2006 as indoor patient. He underwent an operation on his right leg and was advised bed rest for one month even after he discharged from hospital. According to the claimant he had lost his job after the accident. He also stated that he had got a call letter for

the post of Head Constable (Workshop) under the Border Security Force but due to permanent disability he could not appear before the Interview Board. The Medical Board assessed his disability at 20% but it may be clarified that the disability is only in respect of one limb because all that is stated is that he has stiffness on the right ankle. Unfortunately, the learned MACT did not consider any of these factors while determine the compensation.

[5] It is well settled law that in a case of injuries compensation is awarded under two heads; pecuniary damages and non-pecuniary damages. Under the head of pecuniary damages, the expenses of treatment, attendants, special diet, transportation, hospitalization will be covered. Under the head of pecuniary losses, the claimant will also be entitled to the amount of income which he has actually lost due to his being unable to attend his work and in case, the injury has caused a permanent disability, then the future loss of income shall also have to be considered. Under the head of non-pecuniary damages, normally damages will be awarded under the head of pain and suffering and in cases of permanent disability also for loss of amenities of life and future discomfort in life. In cases where the claimant is a young unmarried person and the injuries affect his marital prospects, damages for loss of marital prospects can also be awarded.

[6] The claimant was in hospital outside the State for two months and three days. He would have had required at least two attendants round the clock at Silchar. These attendants would lose their income at their home town and went to attend the claimant at Silchar and look after their boarding and lodging. The cost of each attendant at Silchar even in the year 2006 would not be less than Rs.500 per day, cost of two attendants thus come to Rs.1000/- and therefore, even in the loss of attendants would be Rs.63,000/-.

[7] As far as medical expenses are concerned, the claimant has been awarded only Rs.1,20,836/- for which he produced the vouchers. There may be other small amounts for which vouchers could not have been produced and keeping in view the length and nature of treatment it would not be unreasonable to assess the compensation at Rs.1,30,000/- under medical expenses.

[8] No amount has been awarded for transportation for the journey from Kailashahar to Silchar and back which the claimant would have had to do by taxi and therefore, he would be entitled to at least Rs.5000/- under this head. Therefore, the compensation on medical expenses itself would work out to Rs.1,85,000/-. In case the compensation had been properly worked out may be the claimant would have been entitled more than what has been awarded.

[9] The amount on medical expenses itself is coming to Rs.1,85,000/-. The claimant could have been awarded much more than one lakh rupees for loss of future expenses if it had been worked out scientifically because even if the income of the claimant was taken at Rs.1500/- per month as claimed by him and if 50% was added to his income for his future prospect and deduction of 10% made it would mean loss of Rs.200/- per month or Rs.2400/- per year and if multiplier of 18 is applied the compensation would work out to more than Rs.50,000/-. The amount awarded for pain and suffering may be on the higher side but he should have been awarded at least Rs.25,000/- for pain and suffering. The claimant was also entitled to amount for loss of amenities of life and future discomfort in life. No amount has been awarded under this head. Therefore, the claim is slightly on the lower side. And the award cannot be decreased at all. However, there is no appeal filed by the claimant and therefore, I have no other option but to dismiss this appeal filed by the owner which is accordingly dismissed.

[10] Admittedly, the vehicle was not validly insured and it is only the appellants-insured is liable to pay the compensation. No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE