

IN THE HIGH COURT OF TRIPURA
AGARTALA

CRP No.26 of 2010

- 1. The State of Tripura,**
represented by the Secretary,
Department of Home, having his
office at Secretariat Complex, P.O.
Agartala, District – West Tripura.

(Owner of the Vehicle)

- 2. The Officer-in-Charge,**
Belonia Police Station, P.O. & P.S.
Belonia, District – South Tripura

..... Petitioners

- V e r s u s -

Shri Animesh Saha,
son of late Upendra Kr. Saha,
resident of Kalinagar, P.O. & P.S.
Belonia, District – South Tripura.

..... Respondent

BEFORE
THE HON'BLE MR.JUSTICE S. TALAPATRA

For the petitioners : Mr. A. Pal, Advocate.

For the respondent : None.

Date of hearing and : **16.01.2015**
delivery of judgment & order

Whether it is fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard A. Pal, learned counsel appearing for the
petitioners. None appears for the sole respondent.

[2] This is a petition filed under Article 227 of the
Constitution of India against the judgment and award dated
11.01.2010 delivered in T.S. (MAC) No.33 of 2005 by the Motor

Accident Claims Tribunal, West Tripura, Agartala, No.2 as in view of the restriction imposed by the sub Section 2 of Section 173 of the Motor Vehicle Act '*no appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than then thousand rupees*'.

[3] Mr. A. Pal, learned counsel appearing for the petitioners has submitted that without recording any evidence whatsoever and entirely on relying the first information report, (the FIR, in short) filed with the claim petition, the Tribunal has returned the finding that the sole respondent has suffered damages and thus a sum of Rs.10,000/- (Rupees five thousand) has been awarded with interest @6% per annum form the date of filing of the claim petition i.e. 22.01.2005. According to him, the Tribunal has no jurisdiction to pass any award on the basis of the FIR which has not been introduced on record of the evidence affording one opportunity to the opposite parties. It appears from the judgment and award dated 11.01.2010 that:

"Issues were framed on 02.0.07 and since then the claimant was allowed several opportunity to adduce evidence but no result.

The prayer filed today seeking further time is thus disallowed as other side complaints of long harassment. So, the evidence for the claimant is closed.

Defence side examined one OPW. Shri Shirendra Ch. Das on the examination in chief filed earlier."

[4] Thereafter, it has been further recorded that:

The certificate copy of the FIR shows that the truck was responsible for the accident which

collided the bike by violating the traffic signal. The FIR was lodged immediately after the accident meaning thereby that the informant got a little chance to exaggerate the facts. Although the other side in the trial took a defence that it is because of the negligence of the motor bike the accident occurred. But besides the oral evidence of said Dhirendra Ch. Das, there appears to be no other supporting evidence to corroborate the said fact. This Court, therefore, find it convenient to hold that Anima Saha sustained injury out of use of motor vehicle and is entitled to the compensation under the Motor Vehicles Act.

[5] The procedure for purpose of inquiry as followed by the trial court is absolutely perverse and without jurisdiction, when the claim petition has not been supported by any evidence. The FIR, even if introduced in the record of evidence on observing the due process, is not a substantive piece of evidence. No opportunity was allowed by the Tribunal to the petitioner herein, to adduce any evidence.

Having regard to that aspect of the matter, the impugned judgment and award dated 11.01.2010 is interfered with and accordingly, it is set aside.

In the result, this petition stands allowed.

JUDGE

Sujay