

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.20 of 2010

1. The Commissioner-cum-Secretary,
Health & Family Welfare Department,
Government of Tripura, P.O. Agartala,
P.S. West Agartala, Dist. West Tripura.
2. The Director of Health & Family Welfare Department,
Government of Tripura,
Pandit Nehru Complex, Gurkhabasti,
Agartala, West Tripura.
3. The Chief Medical Officer (West),
Palace Compound, Agartala,
West Tripura.

..... *Appellants.*

- Vs -

Shri Krishna Chandra Banik,
S/o. Late Narendra Chandra Banik,
Resident of Ramnagar Road No.7,
P.O. Ramnagar, Agartala, P.S. West Agartala,
Pin - 799001, District - West Tripura.

..... *Respondent.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellants : Mr. S Chakraborty, Addl. Govt. Advocate.
For the respondent : Mr. D C Saha, Advocate.
Date of hearing : 19.3.2015.
Date of judgment : 27.3.2015.
Whether fit for reporting : No.

JUDGMENT & ORDER

This appeal by the State is directed against the award dated 3rd July, 2009 passed by the learned Motor Accident Claims Tribunal(Court No.3), West Tripura, Agartala in TS(MAC)426 of 2007 whereby he awarded compensation of Rs.35,400/- to the claimant.

2. The claimant is a disabled person. He filed a claim petition alleging that he was travelling on his tricycle and that on 8th January, 2007 at about 2.30 p.m. when the claimant was proceeding with his tricycle on Ramnagar Road No.7 towards his office at Gandhighat a '*mini truck*' bearing registration No.TR-01B-0729 belonging to the Health & Family Welfare Department hit him from behind and caused injuries to him. The stand of the State was that no accident had taken place with the vehicle in question. The learned Tribunal decided this issue against the State and hence the present appeal.

3. I have heard Mr. S Chakraborty, learned Additional Government Advocate for the appellants and Mr. D C Saha, learned counsel for the claimant-respondent.

4. Mr. Chakraborty has urged that the evidence on record especially the evidence of the witnesses examined by the State clearly proves that no accident took place with this vehicle and a false claim has been lodged. The claimant appeared as prosecution

witness and supported his case. The suggestion put to him is that some rickshaw hit his tricycle causing injuries to him. The stand of the State appears to be that the driver of the vehicle belonging to the State at the asking of the local people took the damaged tricycle to the I.G.M Hospital and thereafter a false case has been lodged.

5. The claimant had filed the affidavits of two other witnesses but unfortunately they were never produced in Court for cross-examination and no reliance can be placed on the same.

6. As far as the opposite side is concerned, the statement of OPW.1 Dr. Samarjit Das is of no use because he was not at the spot and knows nothing about the occurrence. Dulal Ch. Das driver of the vehicle also submitted his affidavit and according to him, when he was near the gate of the TRTC bus stand, he saw a number of people gathered there. Some people requested him to stop the vehicle which was a Red Cross vehicle. A traffic policeman asked the witness to take the tricycle of the injured to the I.G.M Hospital since a physically handicapped person travelling on the tricycle had been injured and taken to the hospital. This witness denied that there was any collision between the vehicle and the tricycle of the claimant.

7. OPW.3 is one Manoj Debbarma who states that he was travelling on the vehicle as a goods transporter. He has supported the statement of Dulal Ch. Das. It appears to me that the statement of this witness cannot be relied upon because I do not understand how a

goods transporter would be travelling in a Red Cross vehicle. He is obviously a procured witness. There is no question of a labourer traveling in a Red Cross vehicle. Therefore, I cannot place any reliance on his statement.

8. The most important witness is OPW.4 the traffic policeman and he has also supported the case of the driver Dulal Ch. Das. According to this witness, the offending vehicle was a Red Cross vehicle and on his request, the driver had taken the tricycle of the injured to IGM Hospital. This witness has also stated that he had seen the tricycle colliding with another rickshaw and thus the claimant sustained injuries. When cross-examined, he stated that he did not report the matter to anybody about the complainant being hit by a rickshaw nor did he try to apprehend or arrest the rickshaw puller. It is very difficult to rely upon the statement of this witness and it appears that he is not telling the truth. If a traffic policeman had seen an accident happening with a rickshaw it was his duty to immediately apprehend the rickshaw puller and to have noted down his name.

9. In the present case, the accident took place on 8th January, 2007, the complaint was made on 10th January, 2007 and registered on 12th January, 2007 immediately after the occurrence and after the victim had recovered and the allegation made in the FIR also support the case of the complainant. In this view of the matter, I

am of the considered opinion that the view taken by the learned Tribunal is a very plausible view. Therefore, I find no merit in the appeal which is, accordingly, dismissed.

10. Send down the LCRs forthwith.

CHIEF JUSTICE