

THE HIGH COURT OF TRIPURA

AGARTALA

MAC App. No. 13 of 2010

Claimant-Appellant :

Sri Dattaram Debbarma,
S/o. Sachi Kumar Debbarma, Resident of
Village-Suknachara, near salema, P.S-Salema,
District-Dhalai.

By Advocate :

Mr. S. K. Dutta, Adv.

Opposite Party-Respondents :

1. Smti Champa Sarkar (Majumder),
W/o. Sri Jhantu Majumder,
Resident of Village-Nalicherra, Kamalpur, P.S-
Ambassa, District-Dhalai.
(Owner of the vehicle No. TRT-2852,
Commander Jeep)

2. The Oriental Insurance Co. Ltd.,
Divisional Office, Central Road, Agartala, Dist.
West Tripura. (Represented by its Divisional
Manager)
(Insurer of the vehicle No. TRT-2852,
Commander Jeep)

By Advocate :

Mr. P. Gautam, Adv.

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **12th March, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

This appeal by the claimant-appellant is directed against the
award dated 15.09.2009 of the Motor Accident Claims Tribunal, Court No.3
West Tripura, Agartala whereby the claim petition was dismissed.

[2] The main ground for dismissing the claim petition was that despite five dates have been granted to the claimant-petitioner for adducing evidence no steps were taken to lead evidence.

[3] I have gone through the record and I find that issues in the claim petition were framed on 13.08.2008. Thereafter the matter was listed for evidence of the claimant on 5.11.2008 and at the request of the counsel for the claimant it was adjourned to 5.1.2009, which was later declared a holiday. The case was taken up on 06.01.2009 and adjourned to 20th February, 2009 for recording the statement of the witnesses. No steps were taken but on that date there was no Presiding Officer posted in the Court to record evidence, therefore this cannot be treated to be an effective date. The case was then adjourned to 01.04.2009 when also no Presiding Officer had been posted.

[4] Then the matter was listed on 05.06.2009 but the claimant had not taken any steps for summoning evidence. The case was then taken up on 27.06.2009 when again no steps had been taken for recording the evidence. The case was, however adjourned and fixed on 23.07.2009. Again no steps were taken and the case was then adjourned for judgment. Two dates were given for judgment but even then no application was filed. The learned Tribunal may be right in deciding the case on merits because the Tribunal cannot wait for eternity for the claimant to lead evidence.

[5] However, at the same time I feel that a poor claimant who is otherwise entitled to compensation should not be denied compensation on this ground alone. Therefore, as a matter of indulgence, the order of the learned Tribunal is set aside, subject to the following terms and conditions:

(i) The parties are directed to appear before the learned Motor Accident Claims Tribunal concerned on 23rd April, 2015.

(ii) The Tribunal shall give only one date to the claimant to produce his entire evidence in the month of June-2015. It shall be the responsibility of the claimant to produce his evidence at his own responsibility on the date so fixed by the Tribunal. If no evidence is produced then obviously the claim petition has to be dismissed for lack of evidence.

(iii) In case the claimant produces evidence then the insurance company shall be entitled to cross-examine the witnesses and lead evidence in rebuttal and at least two opportunities shall be given to the insurance company to produce any evidence if it wants to lead evidence.

(iv) The learned Tribunal shall make an effort to dispose of the matter latest by 30th September, 2015.

[6] The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the lower Court records forthwith.

CHIEF JUSTICE