

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.39 OF 2010

Sri Maloy Chandra Sinha,
S/O. Late Khiragopal Sinha,
Village-Goldharpur, PS-Kailashahar,
District-North Tripura.

..... **Appellant.**

- V e r s u s -

Mst. Asida Begam (Minor),
D/O. Abdul Sobur,
Village-Kanakpur,
P.O. & PS-Kailashahar,
District-North Tripura.
(The respondent being minor, she is represented
by her parents, Md. Abdul Sobur and Mst. Rejiya Khatun,
both residents of Village-Kanakpur, PO & PS-Kailashahar,
Distt.-North Tripura).

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	: Mr. S. Lodh, Advocate.
For the respondent	: Mr. S. Bhattacharji, Advocate.
Date of hearing and delivery of judgment and order.	: 18.06.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER (ORAL)

This is an appeal filed by the owner against the award dated 06-02-2010 passed by the learned Motor Accident Claims Tribunal, North Tripura, Kailashahar in case No. T.S.(MAC) 19 of 2008 whereby the learned Tribunal awarded Rs.28,000/- to the claimant as compensation.

2. Admittedly the vehicle in question was not insured and the appellant-owner was fastened with the compensation. The main grounds are that appellant was not at fault and he was not negligent and the second ground is that the amount of compensation awarded is excessive. It is also urged by Mr. S. Lodh, learned counsel for the appellant, that in the criminal proceedings the Apex Court while upholding the judgment of this Court holding the appellant guilty of rash and negligent driving imposed fine of Rs.50,000/- in place of sentence and that amount has been paid and that may also be taken into consideration.

3. From the arguments of Mr. Lodh itself it is apparent that in the criminal case arising out of the same accident, the appellant was held guilty of rash and negligent driving. The degree of proof required in a criminal case is beyond reasonable doubt and, therefore, a person who has been held guilty of rash and negligent driving by a criminal Court cannot be heard to plead in a motor accident claims case that he was not guilty.

4. As far as adjusting the amount of Rs.50,000/- is concerned, this argument is totally without merit. This Court had sentenced the appellant to undergo sentence for at least six months and the substantial sentence was set aside by the Apex Court on the condition that the appellant should pay fine of Rs.50,000/-. That fine is paid in respect of criminal proceedings and the appellate Court did not say that the amount of fine should be taken into consideration while assessing the amount under the Motor Vehicles Act. The appellant who had filed the SLP before the

Supreme Court had not apprised the Supreme Court that he has also filed an appeal challenging the award; otherwise the Apex Court may have taken a totally different view of the matter.

5. The amount of compensation awarded is, in fact, on the lower side and, therefore, I find no merit in the appeal which is accordingly dismissed.

6. Send down the lower court records forthwith.

CHIEF JUSTICE