

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.27 of 2010

Shri Abhijit Adhikari,
S/o Adhir Adhikari,
Resident of Village - Kalsimura,
Boxanagar, P.S. Kalamchoura,
Sonamura, Dist. West Tripura.

..... *Appellant.*

- Vs -

1. Sri Bimal Chandra Das,
Son of Subal Chandra Das,
Resident of Boxanagar,
P.S. Kalamchoura, Dist. West Tripura.
(Owner of TR-01-E-1829, Mini Truck).

2. The Branch Manager,
The New India Assurance Company Ltd.,
Mantri Bari Road, P.S. West Agartala,
Dist. West Tripura.

..... *Respondents.*

**_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the appellant : Mr. S K Dutta, Advocate.

For

respondent No.1 : None.

Respondent No.2 : Mr. P Gautam, Advocate.

Date of hearing : 23.6.2015.

Date of delivery of judgment : 02.7.2015.

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER

This appeal by the claimant-appellant is directed against the award, dated 13th January, 2010 delivered by the learned Motor Accident Claims Tribunal, Court No.1, West Tripura, Agartala in Case No.TS(MAC)518 of 2007 whereby he dismissed the claim petition filed by the petitioner on the ground that the plaintiff had failed to prove that he received injuries in a motor vehicle accident as alleged by him.

2. The claimant-appellant filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming that he received injuries in a motor vehicle accident involving vehicle No.TR01-E-1829 on 13th January, 2007 at 8.30 p.m. on Agartala - Bishalgarh road. According to the claimant, he was coming from Boxanagar to Agartala by *Jeep* and at about 8.30 p.m. the *Jeep* went out of order due to mechanical disorder. The claimant got down from the *Jeep* and was waiting for another vehicle and at that time, the offending vehicle *Mini Truck* bearing Registration No.TR01-E-1829 came from Bishalgarh side at a high speed and knocked down the claimant. After the accident claimant was taken to the house of his uncle at Laxminarayanbari Road, Banamalipur, Agartala. He took medicines from a local chemist but on the next day on 14th January, 2007 he went to the hospital at Agartala and he was admitted there and remained as an indoor patient till 12th February, 2007.

3. The owner denied the occurrence of the accident. The claimant examined himself and reiterated what he had stated in the affidavit filed in examination-in-chief. In cross-examination he admitted that for the first time he filed a complaint to the police on 9th July, 2007 though he denied the suggestion that the complaint was a false one. The learned trial Court did not believe the version of the claimant and dismissed the claim petition.

4. It would be pertinent to mention that in the medical record when the petitioner was admitted in hospital it is not mentioned that the he was suffering from a *Road Traffic Accident(RTA)*. He was admitted on 14th January, 2007 at 1.51 p.m. and was found to be suffering from fracture of both bones of the right leg. On 10th March, 2015 this Court had given an opportunity to the appellant-petitioner to produce any other contemporaneous record to show that at the time when he was admitted in hospital at any place it was mentioned that he had suffered the injuries in a *Road Traffic Accident*.

5. It has been urged by Sri S K Dutta learned counsel for the appellant that in Tripura the “*Doctors*” are very negligent and in the discharge certificate the factum of *Road Traffic Accident* is seldom mentioned. I am not in agreement with this submission. I have decided hundreds of cases under the Motor Vehicles Act and I have found that the practice in Tripura is whenever a patient is taken to the hospital

and if it is alleged that he suffered injuries in a road traffic accident the words “RTA” are written in the discharge certificate.

6. Moreover, in this case according to the claimant he suffered injuries at 8.30 p.m. and was taken to the house of his uncle. The uncle has not been examined. In none of the documents filed by the claimant immediately after the treatment or even when he was being treated as outdoor patient, it is mentioned that he suffered the injuries in a motor vehicle accident. No complaint was lodged with the police also and for the first time on 9th July, 2007 the complainant lodged a complaint with the police that he had received injuries in a motor vehicle accident. According to him, he could not file the complaint earlier because he remained busy with his treatment. From the medical record I find that in fact the claimant was discharged from hospital on 12th February, 2015 and he was asked to come to hospital after one month. After that he was not under treatment.

7. It is also difficult to believe that a person who has fractured both the bones of his leg would not be taken to the hospital immediately after the accident. The uncle would have normally taken the complainant to the hospital either immediately after the accident or immediately on the next morning. I am of the view that the learned Tribunal was right in holding that the claimant did not suffer injuries in a motor vehicle accident and has put up a totally false case only with the intention of grabbing compensation. There is no contemporaneous

record at all to show that he received injuries in a motor vehicle accident.

8. Therefore, I find no merit in the appeal which is, accordingly, dismissed. Send down the LCRs forthwith.

CHIEF JUSTICE