

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.55 OF 2010

Sri Bir Chandra Debbarma,
S/O. Sri Suku Chandra Debbarma,
of Village-Ujan Abhoynagar,
(Khakater Kami), P.O. Abhoynagar,
P.S. East Agartala, Dist. Tripura West.

..... **Appellant.**

- V e r s u s -

1. Sri Binoy Bhushan Debnath,
S/O. Late Banka Behari Debnath,
of Village-Bhawalia Basti,
(Near T.R.T.C Complex),
P.O. & P.S.-Ambassa,
District-Dhalai, Tripura.
(Owner of the Commander Jeep No.TR-01-4207).
2. The New India Assurance Co. Ltd.,
(Represented by its Divisional
Branch Manager),
Mantri Bari Road, Agartala,
West Tripura.

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	: Mr. D. Saha, Advocate.
For the respondent No.2	: Mr. P. Gautam, Advocate.
Date of hearing and delivery of judgment and order.	: 11.02.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation is directed against the award dated 17-07-2010 passed by the learned Motor Accident Claims Tribunal, Court No.3, West Tripura, Agartala in case No. T.S.(MAC) 490 of 2008 whereby he awarded a sum of Rs.13,411/- only in favour of the claimant.

2. The undisputed facts are that the claimant suffered injuries in a motor vehicle accident on 30-05-2008. He was taken to the G.B.P. Hospital with trauma head injury in a road traffic accident. There were a number of injuries on his face and teeth and on 30th May itself CT-Scan was performed and there is a fracture also reported. The claimant was discharged from hospital on 07-06-2008. According to him, he remained on leave up to 24-08-2008. However, the learned Tribunal held that since he had remained on commuted leave for the period from 10-07-2008 to 24-08-2008 he was not entitled to reimbursement of the salary.

3. The award of the learned Tribunal is extremely conservative. The claimant has produced cash memos for a sum of Rs.6,411/- spent by him on medicines and CT-Scan. The Tribunal has only awarded him this exact amount.

4. Repeatedly, this Court has been stating that many bills of medicines, especially in the first few days of treatment are not kept by the relatives or attendants of the claimant. Therefore, keeping in view the nature of the injury and the period of treatment, I assess the medical expenses at **Rs.10,000/-**.

5. The claimant was awarded Rs.5,000/- towards transportation, food and lodging. This too is on the lower side. The claimant remained in hospital for 9(nine) days. He would have required two attendants round the clock. Even if the cost of one attendant is taken at Rs.250/- per day and cost of two attendants

at Rs.500/- per day, the cost of attendants alone works out to **Rs.4,500/-**.

In addition thereto, there would have been transportation charges etc. and, therefore, the same are assessed at **Rs.7,500/-**.

6. The amount of Rs.2,000/- awarded for pain and suffering is extremely low. The claimant has remained in hospital for 9 days and has suffered a brain injury and he should have been awarded **Rs.10,000/-** for pain and suffering.

7. Lastly, coming to the issue of grant of leave salary. The claimant has claimed that his salary was about Rs.12,000/- per month. Keeping in view the fact that he was an assistant teacher, this appears to be reasonable though there is no exact proof of his salary. Therefore, he is held entitled to salary for the period from 30-05-2008 when the accident happened till 24-08-2008 when he rejoined duty, i.e. for 2 months and 25 days which works out to approximately **Rs.34,000/-**.

Therefore, the total compensation works out to Rs.(10,000 + 4,500 + 7,500 + 10,000 + 34,000) = Rs.66,000/- (rupees sixty six thousand).

8. In view of the above discussion, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs.13,411/- to Rs.66,000/-, i.e. by Rs.52,589/-. On the amount of compensation so awarded, the claimant shall also be entitled to interest @ 7.5% per annum from

the date of filing of the claim petition till payment/deposit of the awarded amount. Since the Insurance Company has already satisfied the award of the Tribunal, it is directed to deposit the enhanced amount of compensation along with interest in the Registry of this Court within 8(eight) weeks from today after deducting/adjusting the amount, if any, already paid/deposited by them along with proof of such earlier deposit.

9. The appeal is disposed of in the aforesaid terms.

10. Send down the lower court records forthwith.

CHIEF JUSTICE