

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.05 OF 2011

Shri Ashit Bhattacharya,
S/O. Late Jadav Bhattacharya,
A resident of Madhyapara,
P.S. West Agartala, P.O. Agartala,
District-West Tripura.

..... **Appellant.**

- V e r s u s -

1. Shri Sanjib Debnath,
S/O. Shri Gokul Debnath of
Mohanpur, Vill-Majlishpur,
P.S. Jirania, District-West Tripura.
(Owner of TR-01-C-0742 Maruti van).
2. The Divisional Manager,
National Insurance Company Ltd.,
Akhaurya Road, P.S. West Agartala,
District-West Tripura.

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. A. Nandi, Advocate.

For the respondent No.2 : Mr. P. Gautam, Advocate.

Date of hearing : 07.09.2015.

Date of judgment : 30.09.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER

This appeal under Section 173 of the Motor Vehicles Act (M.V. Act) is directed against the award dated 09-12-2010 delivered by the learned Motor Accident Claims Tribunal, Court

No.3, West Tripura, Agartala in case No. T.S.(MAC) 346 of 2002 whereby he dismissed the claim petition filed by the claimant on the ground that it is not proved that the accident took place due to the rash and negligent driving of the driver of vehicle No.TR-01-C-0742.

2. The claim petition was filed by the claimant Asit Bhattacharjee in which it was alleged that he was walking on the extreme left side of the Assam-Agartala road and the vehicle which was coming from Agartala to Kashipur hit the claimant at about 5 p.m. on 28.01.2002. In the claim petition though there are great details about the period of treatment, nature of injuries etc., all that is mentioned about the accident is that while the claimant was walking towards Kashipur Chowmuhan, all of a sudden vehicle bearing registration No.TR-01-C-0742 proceeding towards Agartala hit the petitioner.

3. The owner of the vehicle filed written statement in which it was stated that when an unknown passerby attempted to cross the road near Kathia Babaji Ashram, some person was hit by the vehicle. The stand of the owner appears to be that since his vehicle was insured with the Insurance Company, the Insurance Company alone would be liable to pay the compensation. The Insurance Company denied all the allegations and contested the claim on merits.

4. Though the accident is alleged to have been taken place on 28.01.2002, the matter was reported to the police after almost 2(two) months on 22.3.2002. It is not even clear whether

the FIR was lodged or not, but there is a GD entry No.1319 of 22.3.2002. In the GD entry, it is stated that the Maruti car hit the petitioner from behind. If the petitioner was hit from behind, it is not understood how he could have noted the number of the vehicle.

5. Another important factor is that in the discharge certificate there is no mention of a road traffic accident. The normal practice in Tripura is that when a person suffers injury in a motor vehicle accident and is brought to the hospital and it is disclosed that he has suffered injuries in a vehicular accident, the words "RTA" (road traffic accident) are normally written in the discharge certificate. In this case, nothing has been written. In the affidavit filed by the claimant, he states that he was admitted from 28.01.2002 to 04.4.2002. The accident allegedly took place on 24.01.2002. If indeed the claimant had suffered fracture of both bones of the left leg on 24.01.2002 as alleged by him, it is not understood why he would not have gone to the hospital immediately. There is not a word in his statement as to where he was being treated from 24.01.2002 to 28.01.2002.

6. The owner did not appear in the witness box and when notice of this appeal was sent to the owner, it transpired that he left for Malaysia more than 10(ten) years back and has not come back. I have gone through the entire records of the case and I find that the certificate of treatment of the petitioner is from 28.01.2002 to 04.4.2002 and thereafter at other places. There is a lot of record after that but there is no record to show where he was

being treated from 24.01.2002 to 28.01.2002. The injury was not a minor injury and the claimant has not even stated that he went home or that he was taken home and, therefore, could not lodge the complaint.

7. In the last 2½ years in Tripura, I have found that there is an inordinately high percentage of false cases under the M.V. Act being filed in the State of Tripura. No FIR is lodged, no criminal proceedings are started but then a convenient owner of a vehicle is found who admits the accident and compensation is awarded.

8. This Court has a lot of sympathy with persons who have genuinely suffered injuries in a motor vehicular accident. However, there can be no misplaced sympathy for persons who file false cases. In the present case, the records of the hospitals do not support the version of the petitioner that he suffered injuries in a motor vehicle accident. The petitioner has not only failed to prove any negligence on the part of the owner but has even failed to prove that he suffered injuries in a motor vehicle accident.

9. In view of the above discussion, I am clearly of the opinion that the learned Tribunal was fully justified in dismissing the claim petition.

10. I, therefore, find no merit in the appeal which is accordingly dismissed.

11. Send down the lower court records forthwith.

CHIEF JUSTICE