

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.54 of 2010

Sri Satyagopal Goswami,
S/o Late Subal Goswami,
Vill - Paschim Chandrapur,
P.S. East Agartala, Agartala,
District - West Tripura.

..... *Appellant.*

- Vs -

1. Sri Sukumar Das,
S/o Late Khetra Mohan Das,
Vill- Noabari, P.S. Jirania,
P.O. Jirania, Agartala, District - West Tripura.
(Owner of the offending vehicle No.TR-01-B-2610).

2. National Insurance Co. Ltd.,
Divisional Manager,
42- Akhawara road, Agartala.

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : None.
For the respondent no.2 : Mr. K Bhattacharji, Advocate.
Date of hearing & Judgment : 04.03.2015.
Whether fit for reporting : No.

JUDGMENT & ORDER(ORAL)

On 11th February, 2015 none had appeared for the appellant. However, this Court had not dismissed the appeal but had directed the matter to be listed for today. It was made clear that if today none appears then the matter shall be heard and decided on merits. Today also none has appeared for the appellant and, therefore, I proceed to decide the appeal on merits.

2. This appeal has been filed for enhance of compensation. The learned Tribunal awarded Rs.82,581/- to the claimant under the following heads :

Pain and suffering	:	Rs.10,000/-
Loss of income	:	Rs. 7,000/-
Cost of medicines	:	Rs. 2,581/-
Loss of future earning	:	Rs.63,000/-
		Rs.82,581/-

3. At the outset it may be noted that the injured person was 66 years of age at the time of accident. He suffered injuries and remained in hospital for three weeks. The record shows that the claimant was hospitalized on 29.03.2006, the date of his accident, up to 15.04.2006 and thereafter was advised bed rest for three weeks. The claimant, therefore, remained in hospital for 17 days and he would have required two attendants round the clock. If the cost of one attendant is taken at Rs.250/- per day the cost of two attendants comes to Rs.500/- per day and for 17 days the cost of attendants itself works out to **Rs.8,500/-**.

4. As far as medical expenses are concerned, the claimant has produced vouchers of Rs.2,581/-. I, however, feel that the claimant should be entitled to at least Rs.7,500/- for medical expenses because poor people sometimes do not keep record of all the medical expenditure incurred by them.

5. Now comes the question as to what should be awarded for loss of income etc. The claimant was already 66 years of age at the time when the occurrence took place. According to him, he was a businessman but what is the nature of business is not stated in the claim petition. In the affidavit filed, the claimant has given his occupation to be unemployed and has given his age to be 62 years. It is obvious that he is not telling the truth because as per the record including the voter identity card, the age on the date of accident is appeared to be 66 years 2 months and 28 days. Therefore, his allegation that he was 52 years of age is totally false.

6. According to the claimant, at the time of accident he was possessing a shop at Indira Colony and was doing his business. Again he has not stated what was the nature of his shop. Assuming for the sake of argument that he was running a shop it may be presumed that he could be earning Rs.4000-5000/- per month. Even if he was earning Rs.5,000/- per month, loss of two months would be Rs.10,000/- and the total amount on this account would be Rs.26,000/-. In addition there to the amount of Rs.10,000/- awarded for pain and suffering appears to be reasonable, calling for no enhancement and therefore, the total compensation would be **Rs.36,000/-**.

7. The question that arises is whether the claimant has suffered any loss for future income. According to the claimant, he

was running a shop. He was already 66 years old. The disability certificate which has been produced on record shows that the disability of 30% was in relation to his leg. The disability has been termed as '*mild*' by the medical board and the disability certificate was valid only for 5 years. Therefore, the calculation of compensation for future income is very much on the higher side and claimant was only entitled to nominal amount under this head. As such I am of the view that the compensation which is awarded, is in fact slightly on the higher side and no enhancement whatsoever is called for.

8. The appeal is, accordingly, dismissed. Send down lower court records forthwith.

CHIEF JUSTICE

Sukhendu