

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.19 OF 2011

Sri Dashiram Debbarma,
S/O. Late Kushum Debbarma.
Of Village-Adibashi Colony,
P.O. & P.S.-Bishramganj,
District- West Tripura.

.....Claimant Petitioner Appellant.

- V e r s u s -

1. Sri Santosh Das,
S/O. Late Haridash Das,
C/O. Sri Malin Das,
Resident of Roy Colony,
P.O. & P.S.-Amtali,
Dist.-West Tripura.
(Owner of the vehicle bearing Registration No.
TR-01-A-2516, Commander Jeep).
2. The New India Insurance Company Ltd.
Divisional Office, Hariganga Basak Road,
Agartala, P.O.-Agartala,
P.S.-West Agartala,
Dist.-West Tripura.
(Insurer of the vehicle bearing Registration No.
TR-01-A-2516, Commander Jeep).

..... Opposite Party Respondents.

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. J. Majumder, Advocate.

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

Date of hearing and : 22.09.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This appeal by the claimant for enhancement of
compensation is directed against the award dated 12-08-2010

delivered by the learned Motor Accident Claims Tribunal, Court No.3, West Tripura, Agartala in case No. T.S.(MAC) 458 of 2006.

2. The only issue is whether the compensation awarded by the learned Tribunal is just and reasonable or not. The learned Tribunal has awarded a sum of Rs.1,20,100/- to the claimant under the following heads:-

Pain & suffering	:- Rs. 5,000/-
Loss of income	:- Rs. 6,000/-
Cost of treatment	:- Rs. 1,100/-
<u>Future loss of income</u>	<u>:- Rs.1,08,000/-</u>
Total	:- Rs.1,20,100/-

3. The claimant was working as a labourer when the accident took place on 08.5.2006. The learned Tribunal assessed the income of the labourer at Rs. 100/- per day or Rs. 3000/- per month. Since this accident took place in the year 2006, the assessment appears to be reasonable and cannot be said to be unreasonable. However, other aspects of the matter need to be dealt with.

4. The claimant admittedly remained admitted in hospital for 15 days from 08.5.2006 to 22.5.2006. During this period of 15 days he would have had to be looked after by two attendants and even if the cost of one attendant is taken at Rs. 150/- per day and the cost of two attendants at Rs.300/- per day, over period of 15 days the cost of attendants itself works out to **Rs.4,500/-**.

5. The documents placed on record show that the claimant even after discharge was advised to wear plaster for four weeks and, therefore, it would not be unreasonable to assume that he could not have worked for at least 4(four) months keeping in view the fact that he was a labourer. Therefore, he is awarded loss of income for 4(four) months which works out to Rs.(3000 x 4)= **Rs.12,000/-**.

6. Next comes the question of medical treatment. The claimant has been awarded Rs.1,100/- only under this head. The claimant would have had to spend money on transportation, special diet etc. and keeping in view the nature of injuries and period of hospitalization, I award him **Rs. 7,500/-** under this head.

7. While awarding future loss of income, the learned Tribunal has not added anything for the future prospects in income. 50% is added to the future prospects which works out to Rs.4,500/- and loss of 20% is equal to Rs.900/- per month or Rs. 10,800/- per year and the multiplier as per **Sarla Verma's** case would be 13 and the compensation under this head works out to Rs.1,40,400/- which is rounded off to **Rs.1,40,500/-**.

8. The claimant has been awarded only Rs.5,000/- for pain & suffering. This is an extremely meagre amount. The claimant remained hospitalized for almost 15 days. He was on bed for another 6(six) weeks after that. Therefore, I award him **Rs.20,000/-** for pain and suffering.

9. The claimant has suffered a permanent disability. He cannot walk like a normal human being. He has developed a permanent limp. He has to live with this disability throughout his life. Therefore, I award him **Rs.50,000/-** for loss of amenities and future discomfort in life.

Therefore, the total compensation works out to Rs.(4,500 + 12,000 + 7,500 + 1,40,500 + 20,000 + 50,000) = Rs.2,34,500/- (rupees two lakh thirty four thousand five hundred).

10. 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.1,20,100/- to Rs.2,34,500/-, i.e. by Rs.1,14,400/-. 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 @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount in the Registry of this Court within 4(four) months from today after deducting/adjusting the amount, if any, already paid/deposited by them along with proof of such earlier deposit.

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

12. Send down the lower court records forthwith.

CHIEF JUSTICE