

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.13 OF 2012

Smt. Rakhi Das,
D/O. Shri Subhas Das,
Resident of Vidyasagar Road of Jogendranagar,
P.O. Bankumari, P.S. East Agartala,
District-West Tripura.

..... **Appellant.**

- V e r s u s -

1. United Steel Products,
A ownership firm located at N.S. Road,
P.S. East Agartala, District-West Tripura.
Owner of offending vehicle bearing registration
No.TR-01-D-8573 (Yamaha Libers).
2. The Branch Manager,
New India Assurance Company Ltd.,
Mantribari Road, P.S. West Agartala,
District-West Tripura.
3. Shri Nirupam Das,
S/O. Shri Nil Mohan Das,
Resident of Chitta Ranjan Road near
M.B.B. Club adjacent left side of
Lane of bamboo shop,
P.S. East 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. A. Gon Choudhury,
Advocate.

Date of hearing : 07.09.2015.

Date of judgment : 05.10.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER

This appeal by the claimant is directed against the award dated 14-11-2011 delivered by the learned Motor Accident Claims Tribunal, Court No.3, West Tripura, Agartala in case No. T.S.(MAC) 445 of 2007 whereby the learned Tribunal rejected the claim petition on the ground that the claimant had failed to prove that she had suffered injuries in a motor vehicle accident arising out of the use of motorcycle bearing No.TR-01-D-8573.

2. The claimant is a young lady. She filed the claim petition in which it was alleged that on 08.8.2007 at about 10 a.m. the claimant was proceeding towards the Art College through M.B.B. College Campus and all of a sudden the driver of the offending vehicle No.TR-01-D-8573 (motorcycle) hit her from behind. According to the petitioner, the accident occurred since the driver of the vehicle lost control of the same.

3. The owner filed reply to the claim petition in which it was alleged that no accident with the motorcycle in question had taken place. In the written statement, it was pointed out that though the accident is alleged to have taken place on 08.8.2007 at 10 a.m., the complaint to the police was lodged after one week on 15.8.2007 at 0945 hours even though the place where the alleged accident took place is stone's throw distance from the East Agartala Police Station and other police outpost. It is also pointed out that the claim petitioner and the respondents are neighbours living next to each other for a long time and known to each other.

It is, therefore, submitted that there was no question of any misidentification and in case, the accident had taken place, the owner of the vehicle could have been named on the very first date itself. It was also stated that Nirupam Das, the alleged driver of the vehicle, had been acquitted in the criminal case. The learned Tribunal held that the claimant had failed to prove that the accident had taken place with the vehicle in question and, therefore, rejected the claim petition.

4. The claimant appeared as a lone witness. She reiterated the fact that on 08.8.2007 she had met with an accident. According to her, she was hospitalized from 08.8.2007 to 10.8.2007 and thereafter from 14.8.2007 to 18.8.2007. According to her, after lodging of the FIR on 15.8.2007 the motorcycle bearing No.TR-01-D-8573 was detained by the police. The same was released on the request of the father of the person driving the motorcycle and it is alleged that the father assured that he would bear all the necessary expenses for the treatment of the petitioner. Subsequently, the police had registered an FIR but the registration number of the vehicle was not mentioned in the same. Basically, the case set up by the claimant was that the father of the driver of the motorcycle and the motorcycle driver had assured the injured and her father that they would meet her expenses and, therefore, FIR was not lodged. In cross-examination, she states that one bike came and hit her from behind and thereafter, she became unconscious and regained her senses at G.B. Hospital later in the evening. She told her father about the accident on the same date.

She also voluntarily stated that Nil Mohan Das came to the hospital and told her father that he would bear the expenses of her treatment and asked her father not to lodge the FIR. She also states that she heard the number of the vehicle when she regained her senses. Therefore, it is apparent that she does not know which vehicle hit her from behind. She does not state who was the person who told her about the number of the vehicle.

5. The next witness is one Gopal Saha who states that he has a stationery shop near the M.B.B. College where he also sells cigarettes etc. to the students of the College. According to him, the accident took place just in front of his shop. He rescued the victim and raised an alarm and noted down the registration number of the offending motorcycle. In the affidavit, it is stated that he informed the In-charge of the Police Outpost and family members of the victim through the police personnel about the accident. In this affidavit which is notarized by the Notary Public later the words "in charge of police outpost" have been scored off. This scoring off has not been initialized by the Notary Public and appears to have been done at a stage after the affidavit was notarized. This is a very serious matter. Be that as it may, as per the statement of this witness either he had informed the In-charge of the Police Outpost and even if he had not done that, he informed the family members of the victim through the police personnel about the accident. Since according to him he knew the number of the vehicle, there is no reason why the police would not have lodged the FIR on the same day and have not noted down the number of the vehicle in

the FIR. Later in cross-examination, he takes a totally different stand and states that he did not inform the family of the victim through the police. The father of the victim was not examined. He was the best witness to state as to what had happened. It is the father who lodged the FIR on 15.8.2007 and in the FIR he stated that on 08.8.2007 while his daughter was going to Art College near M.B.B. College, she was hit by a motorcycle. Thereafter, some of the students of the College got her admitted in hospital and sent information to his house. According to the FIR, the bike rider had been apprehended at the spot itself. He further states that when the father of the bike rider came to the hospital and promised him that he would bear the expenses, he did not lodge the FIR. The father should have been examined to prove all that he had stated. He has not been examined. Therefore, adverse inference will have to be drawn against the claimant.

6. The story of the claimant does not appear to be correct. Admittedly, the claimant and the private respondent are neighbours from long. If the accident had occurred with the vehicle as alleged and that too just outside the College, the police would have lodged a complaint and if the vehicle had been apprehended, it could not have been released without documentation. No proof of the same has been given. It is more than apparent that the claimant did not know which was the motorcycle which hit her from behind and after one week a false story was cooked up.

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. 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.

8. Therefore, I have no hesitation in coming to the conclusion that the learned Tribunal was fully justified in dismissing the claim petition.

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

10. Send down the lower court records forthwith.

CHIEF JUSTICE