

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.14 of 2012

Sri Paresh Nandi,
S/o Late Debendra Nandi,
C/o Shri Ranjit Rudrapal,
Resident of Nandannagar,
P.S - East Agartala,
District - West Tripura.

..... *Appellant.*

- Vs -

1. Sri Dulal Debnath,
S/o Late Jogendra Debnath,
Resident of Acharjee Tilla,
Mohanpur, P.O - Mohanpur,
P.S - Ranir Bazaar, District - West Tripura,
[Owner of the offending Vehicle NO.TR-01-1231,
Canter Mini Bus)].

2. The Divisional Manager,
National Insurance Co. Ltd.,
Divisional Office at Akhoura Road,
Agartala, P.S - West Agartala,
District - West Tripura,
[Insurer of the Vehicle NO.TR-01-1231,
Canter Mini Bus)].

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	:	Mr. I Chakraborty, Advocate.				
For the respondent No.2	:	Mr. D R Choudhury, Advocate, Mr. S Sarkar, Advocate.				
Date of hearing	:	08.9.2015.				
Date of judgment	:	11.9.2015.				
Whether fit for reporting	:	<table border="1"><tbody><tr><td>Yes</td><td>No</td></tr><tr><td></td><td>✓</td></tr></tbody></table>	Yes	No		✓
Yes	No					
	✓					

Yes	No
	✓

JUDGMENT & ORDER

This appeal by the claimant-appellant is directed against the award, dated 6th September, 2011 passed by the learned Member, Motor Accident Claims Tribunal(Court No.3), West Tripura, Agartala in Case No.TS(MAC)334 of 2004, whereby he rejected the claim petition filed by the claimant on the ground that the claimant had failed to prove that he received any injury in a motor vehicle accident.

2. The claimant filed a claim petition alleging that he sustained injury in a motor vehicle accident which took place on 5th February, 2004. The allegation of the claimant was that he was trying to board Canter Mini Bus bearing Registration No.TR-01-1231 and had put his foot on its footrest when the vehicle was suddenly started by the driver. As a result of the jerk the claimant fell down and received injuries.

3. The learned Tribunal held that though there was an FIR but since in the final report it was mentioned that there was no foul play hence the claimant was not entitled to compensation. I am of the considered view that this finding of the Tribunal is totally incorrect. The claimant stepped into the witness box and stated that he had received injuries when the driver of the Bus suddenly started the Bus. The claimant has not been subjected to any cross-examination in this regard. Furthermore, the version of the claimant is supported by the FIR. Since the claimant had suffered simple

injuries the FIR may not have been taken to its logical conclusion but the fact remains that the FIR and the injury certificate clearly prove that the claimant suffered some injuries at the time of the accident. Therefore, the claimant is definitely entitled to compensation.

4. As far as the quantum of compensation is concerned, the injury report of 5th February, 2004 clearly shows that the claimant had suffered *blunt trauma on his right chest on the level 5th ribs. There was swelling and tenderness. No other body injury was present and the injury was stated to be simple.* It appears that the claimant was not even admitted in hospital but he has definitely suffered an injury. The claimant has relied upon one discharge certificate which shows that he was admitted in hospital from 21st February, 2004 to 6th March, 2004. According to the claimant, he remained in hospital due to the injuries received in the accident. However, the hospital record totally belies the statement of the claimant. He has been admitted in hospital for *recurring rectal prolapse with hypertension and chronic obstructive pulmonary disease.* Therefore, the rectal prolapse was recurring and the pulmonary infection was chronic. He was also suffering from hypertension. These are in no way related to the accident. Therefore, I do not take this document into consideration while awarding compensation.

5. The claimant was not admitted in hospital even for a day. He suffered blunt trauma injury which was simple in nature. He

could not have lost any income except for one or two days. The accident was occurred in the year 2004. Therefore, I award him **Rs.7,500/-** with interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the same.

6. In view of the above the appeal is allowed and the impugned award dated 6th September, 2011 passed by the learned Member, Motor Accident Claims Tribunal(Court No.3), West Tripura, Agartala is set aside. The insurance company(respondent No.2) is directed to deposit the awarded amount of compensation along with interest in the Registry of this Court within 4(four) months from today.

The appeal is disposed of. Send down the LCRs forthwith.

CHIEF JUSTICE

Sukhendu