

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. 30 of 2011

Sri Swapan Kumar Paul @ Sri Swapan Paul,
S/O. Late Pramod Rangan Paul,
Village – Ranga Pania, P.S. Bishramgang,
District – West Tripura.

..... *Appellant*

- Vs. -

1. Sri Badal Chandra Dey,
S/O Sri Sunil Kumar Dey,
Village – Phool Kumari,
P.S. – R.K. Pur Udaipur,
District – South Tripura.
2. United India Insurance Company Ltd.,
(Represented by its Manager,
Agartala Branch of Ganaraj Chowmohani,
P.S. East Agartala,
District – West Tripura.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. T.D. Majumder, Advocate.

For the respondent : Ms. M. Roy, Advocate.
No.1.

For the respondent : Mr. S.D. Choudhury, Advocate.
No.2.

Date of hearing & : 11.06.2015.
delivery of
Judgment & order

Whether fit for : No.
reporting

JUDGMENT & ORDER (ORAL)

This is an appeal for enhancement of compensation.

2. The undisputed facts are that the claimant received injuries in a motor vehicle accident. He was admitted in the Agartala Government Medical College and GBP hospital on 10th September, 2008 and he was diagnosed as suffering from fracture of right tibia. He was discharged from the hospital on 12th September, 2008 because he was referred to the SSKM hospital, Kolkata for better treatment. The case of the petitioner is that he did not get any place in the SSKM hospital and therefore went to Apollo Gleneagles hospital where he was admitted on 13th September, 2008 and remained admitted till 24th September, 2008. During this period, on 16.09.2008, an operation was performed under spinal anesthesia and the fracture was treated by surgical implants. On 29th September, the petitioner was again admitted for removal of the sutures. The learned Tribunal awarded Rs.2,57,464/- to the claimant under the following heads:-

Pain & sufferings – Rs. 10,000/-

Medical expenses – Rs.1,59,152/-

Air fare – Rs. 37,912/-

Future loss of income – Rs. 38,400/-

3. It is well settled law that in a case of injuries compensation is awarded under two heads; pecuniary damages and non-pecuniary damages. Under the head of pecuniary damages, the expenses of treatment, attendants, special diet,

transportation, hospitalization will be covered. Under the head of pecuniary losses, the claimant will also be entitled to the amount of income which he has actually lost due to his being unable to attend his work and in case, the injury has caused a permanent disability, then the future loss of income shall also have to be considered. Under the head of non-pecuniary damages, normally damages will be awarded under the head of pain and suffering and in cases of permanent disability also for loss of amenities of life and future discomfort in life. In cases where the claimant is a young unmarried person and the injuries affect his marital prospects, damages for loss of marital prospects can also be awarded.

4. Applying the aforesaid principles I now proceed to assess the compensation under different heads. The claimant remained hospitalized for 2 days in Agartala and for 11 days at Apollo Gleneagles hospital. During this period he has attended to and at Kolkata the attendant would have also had to pay for the board and lodging. keeping all these factors into consideration, he is awarded a lump sum **Rs.10,000/-** for attendant charges.

5. Coming to the medical expenses, the bill of Apollo Gleneagles hospital alone is for sum of Rs.1,59,152.17. In addition thereto the claimant must have spent some amount of money on his treatment even at Agartala. Even after discharge from the

hospital, the claimant would be required to spent some amount of money on medicines etc. and therefore, I am of the opinion that the claimant should be awarded sum of Rs.15,000/- in addition to the amount at Apollo Gleneagles hospital and he is accordingly awarded **Rs.1,75,000/-** for medicines and medical treatment.

6. As far as air fare is concerned, the claimant has been awarded Rs.37,912/- which is the exact fare from Agartala to Kolkata and back. The claimant must have hired an ambulance or taxi to go to the airport and similarly in Kolkata also he would have required to take a taxi both to go from the airport to the hospital and to come back from the hospital to the airport. Keeping all these factors into consideration he is awarded a sum of **Rs.40,000/-** under the head of transportation.

7. The claimant has been awarded **Rs.12,000/-** for loss of income. His income has been assessed at Rs.4,000/- per month and I see no fault in this portion of the award. Even with regard to the loss of future income, the award of Rs.38,400/- appears to be reasonable but the same is rounded to **Rs.40,000/-**. The claimant has been awarded only Rs.10,000/- for pain and sufferings. The claimant remained in hospital for more than 15-20 days and could not attend to work for 2/3 months. Therefore, I feel that he should be awarded to **Rs.20,000/-** for pain and sufferings.

8. The claimant has suffered a permanent disability. He has to be awarded some amount for loss of amenities of life and future discomfort. The disabilities, however, are very small. It is only 5%. Therefore, he is awarded **Rs.15,000/-** for loss of amenities of life and future discomfort.

Therefore, the total compensation works out to Rs.3,17,000/- (Rs.10,000/- + Rs.1,75,000/- + Rs.45,000/- + Rs.12,000/- + Rs.40,000/- + Rs.20,000/- + Rs.15,000/-) (Rupees Three lakh seventeen thousand).

9. In view of the above discussion, the appeal is allowed and the award of the learned Tribunal is modified and the compensation is enhanced from Rs.2,57,464/- to Rs.3,17,000/-, i.e. by **Rs.59,536/-** (Rupees Fifty nine thousand five hundred thirty six). On this amount, the claimant shall also be entitled to interest @ 7.5% per annum from the date of filing the claim petition till payment/deposit of the awarded amount. It appears that the insurance company has already satisfied the awarded amount and, therefore, the insurance company is directed to deposit the enhanced amount of compensation along with proportionate interest thereupon in the Registry of this Court within 8(eight) weeks from today. Obviously, the insurance company shall be entitled to adjust the amount(s), if any, which it has already paid or deposited.

10. The appeal is disposed of in the aforesaid terms.
11. Send down the lower court records forthwith.

CHIEF JUSTICE

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