

THE HIGH COURT OF TRIPURA
AGARTALA

MAC App. No. 16 of 2012

Sri Ramendra Debnath,
S/O. Lt. Hemanta Debnath,
Vill & P.O.- Jangalia,
P.S. Bishalgarh,
District. West Tripura.

.....**Claimant Appellant.**

- Vs -

- 1. Sri Jayanta Saha,**
S/O. Sri Bhupendra Ch. Saha,
of Hospital Road, Melagarh,
P.S.- Melagarh, District- West Tripura,
(Owner of TR01G-1892, Tata Ace).
- 2. Sri Susanta Paul,**
S/O. Sri Santosh Paul,
of Kalamkhet, Sonamura,
P.S. Sonamura,
District- West Tripura.
(Driver of TR01G-1892, Tata Ace)
- 3. The Oriental Insurance Company Ltd.,**
44/2, Central Road, Agartala, West Tripura.
(Insurer of TR01G-1892, Tata Ace).

.....**Respondents.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the appellant : Ms. P. Ghatak, Advocate.

For the respondent No.3 : Mr. P. Gautam, Advocate.

Date of hearing & delivery
of Judgment & Order : 18.11.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This appeal by the claimant filed for enhancement of compensation and is directed against the award dated 16.12.2011 passed by the learned Motor Accident Claims Tribunal (Court No.3), West Tripura, Agartala in case No.T.S.(MAC)170 of 2010 whereby, he awarded a sum of Rs. 23,850/-.

2. The undisputed facts are that the claimant suffered a head injury in a motor vehicle accident. He was hospitalized for three days, i.e. from 24th November, 2009 to 27th November, 2009. He has proved expenses of Rs. 17,321/- as medical expenses.

3. The learned Tribunal assessed the income of the claimant at Rs.3,000/- per month and awarded him Rs.3,000/- for pain and sufferings, Rs.15,850/- for cost of treatment, Rs.3,000/- as loss of income for one month, Rs.2,000/- for miscellaneous expenses, i.e. a total of Rs.23,850/-.

4. Though the claimant remained hospitalized only for 3(three) days, it appears that he had a head injury and because of that he had to go for extensive treatment. Therefore, I award him Rs.5,000/- for pain and sufferings. The claimant has produced documents to show that he spent Rs.17,321/- for his medicines. There may be other small expenses for which cash memos may not have been kept and, therefore, I award him Rs.20,000/- for medical expenses. In addition thereto, a sum of Rs.3,000/- is awarded for attendant charges and other miscellaneous expenses.

5. As far as the income is concerned, I am clearly of the opinion that the learned Tribunal was totally wrong in holding that the income of the claimant was only Rs.3,000/- per month. The claimant had placed on record a certificate issued by his employer in which the income was shown to be Rs.7,000/- per month. The claimant was working with a gold smith and it would not be unreasonable to accept this income to be correct and, therefore, I assess the loss of income for one month at Rs.7,000/- as claimed by the claimant.

6. The total compensation is, therefore, assessed at (Rs.5,000 + 20,000 + 3,000 + 7,000/-)=**Rs.35,000/- (Rupees thirty five thousand)**. The award of the learned Tribunal is modified and the compensation is enhanced from Rs.23,850/- to Rs.35,000/- i.e. by Rs.11,150/-. On this amount the claimant shall be entitled to interest @ 7.5% per annum from the date of filing of the claim petition till deposit of the amount. It appears that the respondent No.3, Oriental Insurance Co. Ltd. has already satisfied the award. Therefore, the insurance company is directed to deposit the enhanced amount of compensation along with interest with 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.

7. The appeal is disposed of in the aforesaid terms. No order as to costs.

8. Send down the LCRs forthwith.

CHIEF JUSTICE

satabdi