

THE HIGH COURT OF TRIPURA
A G A R T A L A

MAC APP. NO.19 OF 2012

Appellant :

Smt. Bina Roy,
Wife of Sri Pabitra Roy,
Resident of Bijohnagar,
P.O. Battala, P.S. Sabroom
District- South Tripura.

For and on behalf of:

Sri Prasanta Roy, 13 years (minor),
S/O. Smt. Bina Roy & Sri Pabitra Roy
Resident of Bijohnagar,
P.O. Battala, P.S. Sabroom,
District- South Tripura *Injured person*

By Advocate :

Ms. P. Ghatak, Advocate.

Respondents :

1. Dipak Majumder,
S/O Lt. Nirendra Kr. Majumder,
C/O Sambhu Roy, of Jolaibari,
P.O. Jolaibari, P.S. Baikhora,
District- South Tripura,
(The owner of Truck vehicle bearing No. TRL-4057,

2. Sri Binod Das,
S/O. Sri Dinesh Das, of West Harina,
P.S. Sabroom, South Tripura, (Driver of TRL-4057)

3. The Branch Manager,
The Oriental Insurance Company Ltd.
Udaipur Branch, Jahar Road, Udaipur,
P.S. R.K. Pur, District- South Tripura.
(Insurer of the Truck vehicle bearing TRL-4057)

By Advocate :

Mr. P. Gautam, Advocate.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **18.11.2015**

Whether fit for reporting : **NO**

JUDGMENT & ORDER(ORAL)

This is an appeal for enhancement of compensation. The claim petition has been filed by the mother on behalf of the minor son aged about 10(ten) years who suffered injuries in a motor vehicle accident. The documents on record show that the minor after being hit by the vehicle was admitted in the hospital at Silchar on 28th March, 2008 and was discharged from the hospital after 34 days on 1st May, 2008 and he had a fracture of the shaft femur.

(2) It appears that the claimant did not fully recover and thereafter he was taken to a private hospital being the South City Hospital, Silchar where he remained admitted from 15.06.2008 to 24.06.2008 i.e. for a further period of 8(eight) days. The learned Tribunal awarded a sum of Rs.37,500/- to the claimant under the following heads :

pain and suffering	:-	Rs.10,000/-
cost of treatment	:-	Rs.22,500/-
<u>miscellaneous expenses</u>	<u>:-</u>	<u>Rs.5,000/-</u>
Total		Rs.37,500/-

In my view the award is very much on the lower side. A young boy of 10(ten) years was hospitalized for 42 days in all. He remained under treatment for a period of more than 3 months. Therefore, it cannot be said that Rs.10,000/- is adequate amount for his pain and suffering. I, accordingly, enhanced the amount of compensation under the head of pain and suffering to Rs.25,000/-.

(3) As far as treatment expenses are concerned, the learned Tribunal has awarded Rs.22,550/- but has not awarded a sum of Rs.10,300/- which was paid in the South City Hospital on the ground that the document is neither a bill nor a cash memo. I have gone through the document and I find that all the bills, vouchers issued by the South City Hospital have been taken into account while making the award. I find that the total amount spent on medicine and hospitalization is Rs.39,883/-. There may have been some other expenses which may not have been taken into consideration for which cash memo may not have been kept and, therefore, I award a sum of Rs.45,000/- under the head of medical expenses.

(4) The claimant remained in hospital for 42 days and he must have required attendants around the clock even at the cost of 1(one) attendant is taken up Rs.250/- per day the cost of 2(two) attendants is taken up Rs.500/- per day. The cost of attendant works out to Rs.21,000/-. In addition thereto, the child must have been attended to even outside the hospital and, therefore, I award a sum of Rs.25,000/- for attendant charges. The claimant has not proved any other loss and therefore I award a total sum of Rs.95,000/-. The award is accordingly enhanced from Rs.37,500/- to 95,000/-.

(5) The award passed by the learned Tribunal has been satisfied by the Insurance Company and I am told that the amount has been released in favour of the mother. This should not have been done because this was an amount which was the property of the minor. The Insurance Company is directed to deposit the enhanced amount of Rs.57,500/- along with interest @ 9% per

annum from the date of filing of claim petition till deposit of amount in the Registry within 8(eight) weeks from today. It is, further ordered that the amount which will be deposited shall be kept in a fixed deposit till the claimant attains the age of 21 years on which date the amount alongwith interest shall be paid to the claimant.

(6) The appeal is disposed of in the aforesaid terms.

(7) Send down the LCRs forthwith.

CHIEF JUSTICE

Dipesh