

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.28 OF 2012

1. Sri Joysiam Singh,
S/O. Late Mukutdhari Singh,
2. Smt. Mayasree Devi,
W/O. Sri Joysiam Singh,
both are residents of Lichubagan (Gurkhabasti),
P.O. Kunjaban, P.S. West Agartala,
District-West Tripura.

..... **Appellants.**

- V e r s u s -

1. The State of Tripura,
Represented by the Secretary to the
Government of Tripura,
Home Department,
Civil Secretariat,
P.O. Kunjaban, Agartala-799006,
West Tripura.
2. The Director General of Police,
Government of Tripura,
Agartala-799001,
West Tripura.
3. The Inspector General of Police,
Government of Tripura,
Agartala-799001,
P.S. West Agartala,
Dist. West Tripura.
4. The Deputy Inspector General of Police,
Government of Tripura,
Agartala.
5. The Officer-in-Charge,
M.T. Poll, A.D. Nagar,
Agartala, West Tripura.

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellants : Mr. P.S. Roy, Advocate.

For the respondents : Mr. D.C. Nath, Advocate.

Date of hearing and : 17.11.2015.
Judgment & Order

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This appeal by the claimants for enhancement of compensation is directed against the award dated 19-01-2012 delivered by the learned Motor Accident Claims Tribunal, Court No.3, West Tripura, Agartala in case No. T.S.(MAC) 35 of 2010 whereby the learned Tribunal has awarded compensation of Rs.1,14,500/- in favour of the claimant-mother.

2. The claimants are the parents of the deceased. In the claim petition, it was alleged that their son aged 18 years died in a motor vehicle accident and they claimed compensation on account of his death. In the claim petition it was also stated that the occupation of the deceased was "service and also a businessman of milk". Therefore, what was alleged in the claim petition was that the deceased was employed in a job and also doing work of a milk seller. By way of evidence, the claimants filed affidavit of Smt. Mayasree Devi, the mother who states her age to be 40 years and who also states that she is a housewife. She has stated in her affidavit that the deceased was a businessman of milk having an income of Rs.7,000/- per month. The age of the deceased has been changed from 18 years as stated in the claim petition to 20 years in the affidavit. Furthermore, in this affidavit there is not a word that the deceased was employed in any job. Surprisingly, in para-5 of the affidavit it is stated as follows:-

"After his death I and my wife and other family members are passing our days with starvation."

When the affidavit is of the mother, then the question of the wife of the deponent does not arise. It is more than obvious that this affidavit is not an affidavit of the claim petitioners but an affidavit prepared by somebody else which the illiterate petitioner has only thumb-marked. In cross-examination, the mother of the deceased has admitted that her son was studying in the BSF School. She also admits that she could not produce any document to support the profession of her son. When the mother appeared in the witness box, she stated her age to be 40 years which would mean that at the time of the accident she would have been 1 or 2 years younger and the husband would be about 40 years. Why would a 40 year old husband and wife be dependent on a 18 year old child? It is, therefore, more than obvious that the business of selling milk was carried out by the parents and the child was helping the parents in transporting the milk. Therefore, I am in agreement with the learned trial Court that the deceased was not in the business of selling milk. A person who is studying in school cannot be in the business of selling milk. He was studying in a prestigious BSF school in Agartala and would have to spend most of his time in school. This Court, however, cannot lose sight of the fact that a person of 18 years may help his parents in their work and may have been carrying the milk to the consumers. Therefore, he was definitely contributing something to his family and even taking a very strict view of the matter, his contribution to the family can easily be taken to be Rs.100/- per day or Rs.3,000/- per month. Keeping in view the future prospects, I feel that the disposable income should be taken at Rs.4,500/-.

3. This Court follows two methods while assessing compensation. In those cases where the claimants are parents and the deceased was unmarried, 50% is deducted for the personal expenses of the deceased and in such eventuality, the multiplier is applied by taking into consideration the age of the deceased. In case, the multiplier is to be applied by taking into consideration the age of the claimants, then only 1/3rd should be deducted for the personal expenses of the deceased.

4. In this case, the age of the deceased is 18 years and, therefore, 50% is deducted leaving the datum figure at Rs.2,250/- per month or Rs.27,000/- per year. As far as multiplier is concerned, in accordance with the judgment of **Sarla Verma** the relevant multiplier would be 18 and, therefore, the compensation works out to Rs.4,86,000/-. On this amount, the claimants are awarded Rs.14,000/- for funeral expenses and Rs.50,000/- for loss of their son.

Therefore, the total compensation works out to Rs.(4,86,000 + 14,000 + 50,000) = Rs.5,50,000/- (rupees five lakh fifty thousand).

5. In view of the above discussion, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs.1,14,500/- to Rs.5,50,000/-. The State is directed to deposit the awarded amount of compensation i.e. Rs.5,50,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount in the Registry of this

Court within 4(four) months from today after deducting/adjusting the amount, if any, already paid/deposited by it along with proof of such earlier deposit.

6. The entire amount of compensation shall be payable to the mother. Out of the amount falling to the share of mother, a sum of Rs.1,00,000/- shall be released to her by remitting it to her personal bank account, details whereof along with photocopy of the first page of the passbook be filed in the Registry of this Court within three weeks from today. The balance amount shall be kept in a fixed deposit for a period of five years at the first instance and thereafter a sum of Rs.50,000/- shall be released every year in her favour till the entire amount is released to her. The interest on the fixed deposit be paid to her on quarterly basis.

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

8. Send down the lower court records forthwith.

CHIEF JUSTICE