

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.29 OF 2012

Shri Chitta alias Chitta Ranjan Debnath,
S/O. Lt. Dinbandhu Debnath,
Resident of East Dhajanagar,
P.S.-R.K. Pur,
Udaipur, Tripura South.

..... Appellant.

- V e r s u s -

1. Smt. Shipra Roy (Das),
W/O. Sri Ramendra Chandra Das,
Resident near Udaipur Girls High School,
P.S. & P.O.-R.K. Pur (Udaipur),
Udaipur, South Tripura (now Gomati).
(Owner of the Vehicle No.-TR-03-2296).
2. Sri Bapi Roy,
S/O. Sri Milan Roy,
Vill-Dhajanagar,
P.S. & P.O.-R.K. Pur, Udaipur,
Tripura South (now Gomati),
(Driver of TR-03-2296).
3. The United India Insurance Co. Ltd.,
Udaipur Branch, under R.K. Pur P.S.,
Udaipur, South Tripura, (Now Gomati).
(Insurer of the vehicle No.-T.R.-03-2296)
(Commander Jeep).
4. Sri Shibu Kr. Saha,
S/O. Lt. Manmohan Saha,
Of Dhajanagar,
P.S. & P.O.-R.K. Pur, Udaipur,
Tripura South, Now Gomati Distt.,
(Driver cum Owner of the vehicle TR-03-3021).
5. The Oriental Insurance Co. Ltd.,
Udaipur Branch, P.S. & P.O.-R.K. Pur,
Udaipur, Tripura South, (Now Gomati Tripura).
Insurer of Vehicle No.-T.R.-03-3021.

..... Respondents.

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant

: Mr. G.S. Bhattacharji,
Advocate.

For the respondent No.2 : Mr. A. Das, Advocate.
 Date of hearing and : 21.09.2015.
 delivery of judgment
 and order.
 Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This appeal by the claimant for enhancement of compensation is directed against the award dated 07-12-2011 delivered by the learned Motor Accident Claims Tribunal, South Tripura, Udaipur in case No. T.S.(MAC) 19 of 2010 whereby the learned Tribunal has awarded a total sum of Rs.43,250/- in favour of the claimant under the following heads:-

Loss of income	:- Rs.11,250/-
Pain and suffering	:- Rs.25,000/-
<u>Medical expenses</u>	<u>:- Rs. 7,000/-</u>
Total	:- Rs.43,250/-

2. The undisputed facts are that the claimant Chitta Ranjan Debnath alias Chitta filed a claim petition claiming compensation on account of injuries received in a motor vehicle accident. In the claim petition, it was alleged that the claimant was travelling in vehicle No.TR-03-3021, an auto rickshaw and this auto rickshaw had a collision with commander jeep bearing registration No.TR-03-2296 resulting which the claimant sustained fracture injury of 4th rib of his right chest. Immediately after the accident, he was taken to Tripura Sundari District Hospital, Udaipur for treatment from where he was referred to G.B.P. Hospital, Agartala

and remained admitted therein from 28.12.2009 to 02.01.2010 as indoor patient. Thereafter, he was again admitted as indoor patient in Dr. B.R. Ambedkar Memorial Hospital, Hapania in two spells.

3. The Insurance Companies of both the vehicles have been held equally liable to pay the compensation. It would be pertinent to mention that earlier the claimant was awarded Rs.1,00,000/- in this very claim petition but later on, it was found that the commander jeep was insured with the United India Insurance Company Limited and not the New India Assurance Company Limited. Thereafter, the review petition was allowed and after the United India Insurance Company Ltd. entered appearance, it filed written statement and thereafter, the learned Tribunal has passed an award of Rs.43,250/-.

4. From the material on record, I find that the claimant has suffered fracture of the 4th, 8th and 9th ribs of the left side of his chest. He also sustained fracture of the Superior Pubic Rami (left). He remained admitted in hospital over three stretches from 28.12.2009 to 02.01.2010 and then from 09.01.2010 to 14.01.2010 and lastly from 23.02.2010 to 05.3.2010, i.e. a total of 20 days. The learned Tribunal held that the claimant must have been earning Rs.150/- per day and held that he was entitled to loss of income for 75 days and awarded Rs.11,250/-. Rs.25,000/- was awarded for pain and suffering and Rs.7,000/- for medicines etc.

5. 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.

6. Following the aforesaid principles, I now proceed to assess the compensation afresh. The claimant remained in hospital for 20 days and attendant is required round the clock in the hospital. In the year 2009, the cost of an attendant is taken at Rs.200/- per day and the cost of two attendants per day works out to Rs.400/-, and over 20 days, the cost of attendants works out to **Rs.8,000/-**.

7. The claimant has furnished cash memos for a sum of Rs.5,421/-. This Court can take judicial notice of the fact that sometimes cash memos or vouchers are not kept and there are other small expenses which are not taken care of. Therefore, the claimant is awarded **Rs.10,000/-** under the head of medical expenses.

8. The record shows that the claimant was admitted in hospitals on three separate occasions. He must have had to hire an ambulance or taxi to take him to hospital. There are various outdoor visits. Therefore, he is awarded **Rs.5,000/-** for transportation charges.

9. There is no permanent disability certificate on record. The claimant was under treatment right from the date of accident, i.e. 28.12.2009 and was hospitalized up to his last discharge on 05.3.2010, i.e. for almost 2½ months. Even thereafter he could not have been expected to jump out of the hospital bed and go to work. Keeping in view the nature of injuries and the treatment involved and also keeping in view the fact that the claimant is a daily labourer, I feel that he should be awarded compensation for being out of work for 6(six) months and this works out to Rs.(4,500 x 6)= **Rs.27,000/-**.

10. The claimant has been awarded **Rs.25,000/-** for pain and suffering which, in my opinion, is reasonable.

Therefore, the total compensation works out to Rs.(8,000 + 10,000 + 5,000 + 27,000 + 25,000) = Rs.75,000/- (rupees seventy five thousand).

11. 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.43,250/- to Rs.75,000/-, i.e. by Rs.31,750/-. Since both the Insurance Companies have already satisfied the award of the Tribunal, they are directed to deposit the

enhanced amount of compensation along with interest @ 7.5% per annum in equal share 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 them along with proof of such earlier deposit.

12. The appeal is disposed of in the aforesaid terms.

13. Send down the lower court records forthwith.

CHIEF JUSTICE