

THE HIGH COURT OF TRIPURA

A G A R T A L A

CRP No. 10 of 2015

Petitioners :

1. Smti. Sefali Dhar,

W/o. Late Ajit Kumar Dhar @ Ajit Dhar.

2. Smti. Swapna Dhar,

D/o. Late Ajit Kumar Dhar @ Ajit Dhar.

Both are resident of Lichubagan, P.S-New
Capital Complex, P.O-Kunjaban, District-
West Tripura, Pin-799006.

By Advocate :

Mr. S. K. Dutta, Adv.

Respondent :

National Insurance Company Ltd.

Divisional Office, 42 Akhura Road, Agartala,
Dist. West Tripura, Pin-799001, Represented
by its Divisional Manager.

By Advocate :

Mr. K. Bhattacharji, Adv.

B E F O R E

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **10th March, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

This petition has been filed against the order dated 12.11.2014 whereby the learned Motor Accident Claims Tribunal has rejected the application filed by the claimant-petitioners for release of the amount.

[2] The claimant-petitioner, Smti. Sefali Dhar had filed a claim petition under Section 166 of the M. V. Act claiming compensation on account of the death of her husband Late Sri Ajit Kumar Das caused due to

motor vehicle accident. The accident is stated to have occurred on 26th September, 2009. The claimant, Smti. Sefali Dhar is the widow of Late Sri Ajit Kumar Dhar. In the claim petition it is stated that the deceased had also left behind two sons, Sri Ratan Dhar and Sri Tapan Dhar and two daughters, Smti. Ratna Dhar and Smti. Swapna Dhar. It was stated in cross examination that the two sons are major and were not dependent on the deceased. One daughter was married and another daughter, Smti Swapna Dhar at that time was unmarried. It however, appears that they were not made parties to the claim petition. The learned Tribunal assessed the compensation at Rs.10,14,000/-, deducted 1/3rd for the personal expenses of the deceased and awarded compensation of Rs.6,86,000/- in all. The compensation was awarded in favour of Smti. Sefali Dhar and her unmarried daughter namely, Smti. Swapna Dhar in equal shares.

[3] The claimant-petitioners Smti. Sefali Dhar and Smti. Swapna Dhar filed an application praying for release of the amount and the application was supported by the affidavit of Sri Ratan Dhar, one of the brothers and was also signed by brother, Sri Tapan Dhar, the other son. The learned Tribunal rejected the application mainly on the ground that the sons or the married daughter of the deceased were not made a party to the petition. It is stated that this application was also filed Smti. Ratna Dhar.

[4] At the outset it may be noticed that in the award there was no condition that the amount of Sefali Dhar would be kept in deposit. It was clearly mentioned that only the share of the unmarried daughter of the claimant-petitioner, namely, Swapna Dhar shall not be released without the order of the court and shall be dealt with as per order to be passed

considering her age and for her benefit. With regard to Sefali Dhar there was no such condition.

[5] Though this Court in a number of cases has passed directions that in cases of women especially illiterate woman when passing the award the Court must ensure that the rights of the woman are protected, but this order must be passed at the time of passing of the award and later on during execution proceedings, the Executing Court cannot sit in judgment over the award.

[6] As far as the second objection of the learned Tribunal is concerned to a certain extent the Tribunal is right that all the children should have been made party to the petition. Once the Tribunal came to know that the deceased had left behind some children who were not parties to the petition, the Tribunal itself could have ordered the issuance of notice to such persons. However, again this question cannot be re-opened by anyone but the children. If the children have no objection to their mother or sister getting the money, the others cannot have any objection.

[7] As far as the widow is concerned she is aged about 60 years and the accident occurred about the six years back. As far as the daughter is concerned she is also married and she is an educated person. Therefore, I see no reason to retain their amount in Court any longer. It is therefore, directed that the amount falling to the shares of Smti. Sefali Dhar and Smti Swapna Dhar shall be released by remitting it to their Bank accounts, details whereof along with the first page of the Pass Book be submitted to the learned Motor Accident Claims Tribunal, West Tripura Agartala within 15 days from today.

It is further directed that before release of the amount the claimants shall file the affidavits of the two brothers and one sister that they do not claim any amount and they shall file an indemnity bond stating that if the brothers or sister claim any amount this will be payable out of the share of the claimants and the insurance company will not be liable to pay anything more than what has been awarded.

[8] Petition is disposed of in the aforesaid terms. No costs.

CHIEF JUSTICE