

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.54 of 2011

Sri Amal Kanti Das,
S/o Late Samarendra Das of
Khayerpur, P.S East Agartala,
District - West Tripura.

..... *Appellant.*

- Vs -

1. **Smt Madhu Rani Dhar,**
W/O Sri Rabi Ranjan Dhar of Sekerkote,
P.S. Amtali, District - West Tripura,
(Owner of vehicle bearing No.TR-01-P-0202, Alto).
2. **Sri Mithun Roy,**
S/o Sri Binode Behari Roy of Madhyamura,
P.S. Amtali, District - West Tripura,
(Driver of vehicle bearing No.TR-01-P-0202, Alto).
3. **The Oriental Insurance Company Ltd.,**
Kaman Chowmuhan, Agartala,
(Insurer of vehicle bearing No.TR-01-P-0202, Alto).

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	:	Mr. P Saha, Advocate.
For the respondent No.3	:	Mr. P Gautam, Advocate.
Date of hearing	:	22.9.2015.
Date of judgment	:	30.9.2015.
Whether fit for reporting	:	

Yes	No
	✓

JUDGMENT & ORDER

This appeal by the claimant appellant is directed against the award, dated 11th February, 2011 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala rejecting the claim petition[T.S(MAC) No.111 of 2009] filed by the claimant mainly on the ground that the claimant has failed to prove that he suffered injuries in a motor vehicle accident involving vehicle No.TR-01-P-0202.

2. Briefly stated, the facts of the case as mentioned in the claim petition are that on 26th December, 2007 at about 5.45 a.m. the petitioner was going towards his camp from a tea stall on a scooter as a passenger along with his friend. It is alleged that they were driving on the extreme left side of the road and when they were just crossing the tea garden on Gokulnagar Kamalasagar road, one Maruti Alto car bearing registration No.TR-01-P-0202 also coming from Kamalasagar side but being driven in a rash and negligent manner hit the scooter. As a result of the accident, the petitioner sustained severe injuries and he was first treated at Agartala and then at Kolkata.

3. It is not disputed that the FIR with regard to the accident was lodged by one Arjun Datta in the Bishalgarh Police Station at 12.15 hours. In this FIR, the registration number of the vehicle is shown to be TR-03-4550. In the claim petition, it is mentioned that Arjun Datta was not an eye-witness and he gave the wrong name and

in fact, the accident happened with a car bearing No.TR-01-P-0202. It is also alleged that this car was produced along with the driver in Bishalgarh Police Station and that is why they have been made parties in the case.

4. At the outset it may be noticed that the stand of the claimant is not absolutely clear. In Para 7 of the claim petition, it is mentioned that the accident took place at 5.45 p.m. whereas in Para 22 of the claim petition, the time of accident is mentioned as 5.45 a.m. While appearing in the witness box, the claimant has stated that when he was coming back from the tea stall towards the battalion headquarter at Gokulnagar camp after taking tea at about 5.45 a.m. by a scooter along with his friend, he was on the extreme left side of the road and another car also coming from Kamalasagar side at a high speed hit the scooter. Both in the claim petition and in the affidavit, the claimant has stated that he was riding on a scooter. His version appears to be that he was riding as a passenger. A suggestion was put to him that he was trying to learn scooter driving and received injuries inside the camp area. He denied this suggestion but admittedly, the claimant has no driving licence.

5. Surprisingly the claimant does not mention who was the owner of the scooter. He also does not clearly state who was driving the scooter. The learned Tribunal was right in holding that the

claimant should have been honest and truthful and should have stated who was driving the scooter. This very important piece of information has been purposely withheld in this case.

6. There is also discrepancy with regard to the registration number of the vehicle. In the claim petition and in the evidence it is claimed that the vehicle involved in the accident was TR-01-P-0202. However, in the FIR the number is mentioned as TR-03-4550. These numbers are not similar in nature. It is not a mistake of one figure or alphabet. The whole number as recorded in the FIR has been changed and from the record I find that the number of the vehicle which was recorded in the FIR was changed on the basis of a statement of Sri Arjun Datta who had lodged the FIR. This statement was recorded under Section 161 Cr.P.C. In this statement, he stated that he had seen a red colour Maruti Car being driven from Kamalasagar side and he also stated that this vehicle had also started dashing against him and he fell inside the jungle and then he heard a sound and found that the car had dashed against a scooter. According to him, on seeing such accident, he became confused and, therefore, had given a wrong number in the complaint. This statement cannot be believed at all. One can be in confusion about one digit but not about the whole number of the vehicle. The statement under Section 161 Cr.P.C is on record. However, the same cannot be used.

7. Even more important is the fact that when this Arjun Datta appeared as a witness in the criminal case against the driver of vehicle No.TR-01-P-0202, he stated that he had not seen the accident and he did not see the driver of the Maruti Car. Moreover, Arjun Dutta was not examined in Court in these proceedings and therefore, there is no explanation why the number of the car was changed in the criminal proceeding.

8. The scooter driver or scooter owner who was the best person to give evidence has not been named nor examined in the Court. The one witness who has been examined is one Amal Kanti Das who claims to have witnessed the accident. However, this witness has not been named either in the FIR or in the criminal case and he has just popped up as a witness for the claimant and it is clear that he had never witnessed the accident. If he had witnessed the accident he would have made some report to the police or at least to his battalion headquarter.

9. Another important factor is that the claimant and his witnesses are all police officials. They are not simpletons. Police officials know what is the importance of the number of a car. They also know what is the importance of an FIR. They also know what is the importance of the information recorded on the first date. None of these police officials had given the number of the car at the initial

stage. The owner and the driver of the car have denied that the accident took place and I am clearly of the view that the case filed is totally false one and the learned Tribunal was fully justified in dismissing the claim petition. Therefore, I find no merit in the appeal which is, accordingly, dismissed. No costs.

10. Send down the LCRs forthwith.

CHIEF JUSTICE

Sukhendu