THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.130 of 2013

The United India Insurance Company Limited,
Represented by its Divisional Manager, Agartala Division,
Old RMS Chowmuhani, P.O. Agartala,
P.S. West Agartala, District – West Tripura,
(Insurer of the vehicle No.TR-01-3304 Commander Jeep).

…………. *Appellant.*

- Vs –

1. **Smti Namita Goswami,**
W/o Late Laxman Goswami,
Resident of Durgabari Colony, Gandhigram,
P.O + P.S. Airport, West Tripura.

……………… *Claimant respondent.*

2. **Smti Gopa Datta Gope,**
W/o Sri Anil Gope,
Resident of Gandhighat Hospital Road,
P.O. Agartala, District – West Tripura.

At present residing at –

Vill – West Tara Nagar, Ghosh Para,
(Near Tahasil Office),
P.O. Mohanpur, P.S. Sidhai,
District – West Tripura,
(Owner of vehicle No.TR-01-3304 Commander Jeep).

……………… *Respondent.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. P Gautam, Advocate.

For the respondent No.1 : Mr. S Lodh, Advocate.

Date of hearing and judgme : 06.8.2015.

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER(ORAL)

This appeal by the insurance company is directed against the award, dated 27th June, 2013 passed by the learned Motor Accident Claims Tribunal (Court No.4), West Tripura, Agartala, in Case No.T.S.(MAC)203 of 2012 whereby he awarded a sum of Rs.19,35,000/- in favour of the claimant respondent and against the insurance company and further directed that the award will carry interest @ 7% per annum, if it was deposited within 2(two) months and 9% per annum if it was deposited after 2(two) months.

2. Two points have been raised before this Court by the insurance company. Firstly, that the income of the deceased has wrongly been assessed at Rs.15,000/- per month without there being any evidence on record. Secondly, the award of penal interest is not permissible.

3. I shall deal with the second point first. Under Section 171 of the Motor Vehicles Act, 1988 the learned Tribunal is entitled to award interest on the awarded amount. The language of this Section is very clear that in addition to the award of compensation simple interest can be awarded at such rate as the Tribunal things fit from the date not earlier than the date of filing of the claim petition. Therefore, the Tribunal is only entitled to grant simple interest at one fixed rate and nothing else. Therefore, the award of penal interest is not permissible under this Act.

4. The main argument is with regard to the income of the deceased. In the claim petition as well as in the evidence it was stated that the deceased was running a *"glossary shop"*. Probably what was meant was *"grocery shop"* and I shall give the benefit to the claimant because she should not suffer for the lack of knowledge of *'English'* of the counsel. The fact remains that the deceased was running a grocery shop at Durgabari Bazar which is near a big tea estate. The Tribunal relied upon some certificate issued by the Sub-Divisional Magistrate (SDM), Mohanpur wherein the SDM had certified that the income of the deceased was Rs.15,000/- per month. This Court in ***MAC APP.No.02 of 2010(Shri Tarun Kumar Reang Vs. Shri Rakesh Debnath and others)*** has clearly held that such certificates are inadmissible in evidence and no evidentiary value whatsoever. In view of the law laid down by this Court the certificate could not be relied upon to fix the income.

5. The widow stepped into the witness box and stated that her husband income was Rs.15,000/-. Another witness also stated this fact. However, no *'Books of Account'* or any other material has been place on record to show what was the actual income of the deceased. Therefore, this Court will have to assess the income of the deceased by way of some calculated guesswork. The deceased was running a grocery shop in Durgabari Bazar which is close to a tea estate and, therefore, it is obvious that a large number of workers of the tea estate would be buying goods from such shop. It can reasonably be presumed that even in a semirural area a person running a grocery shop would earn Rs.250/- per day and, therefore, I assess the income of the deceased at Rs.7,500/- per month. 50% is added to this for future prospects. The figure, therefore, works out to Rs.11,250/-. Out of this one third is deducted for the personal expenses of the deceased and the dependency works out to Rs.7,500/- per month or Rs.80,000/- per year and applying multiplier of *'16'* the compensation works out to ***Rs.14,40,000/-***.

6. The claimant is also held entitled to ***Rs.20,000/-*** for funeral expenses. She is also held entitled ***Rs.50,000/-*** as loss of consortium and, therefore, the total amount works out to ***Rs.15,10,000/-***. The total compensation is, therefore, assessed at Rs.(14,40,000 + 20,000 + 50,000/-) = ***Rs.15,10,000/- (Rupees fifteen lakh ten thousand)***. In view of the aforesaid discussion, the appeal is partly allowed. The award of the learned Tribunal is modified and the compensation is reduced from Rs.19,35,000/- to Rs.15,10,000/-. On this amount the claimant shall be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the amount.

The appeal is disposed of. Send down the LCRs forthwith.

CHIEF JUSTICE