

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.50 OF 2012

The Oriental Insurance Company Limited,
Represented by its Divisional Manager,
Divisional Office, Central Road,
Kaman Chowmuhani, P.O. Agartala,
P.S.-West Agartala, West Tripura Dist.,
PIN-799001 (Insurer of vehicle No.TR-04-1723,
Canter Truck).

..... **Appellant.**

- V e r s u s -

1. Smt. Rita Rani Das,
W/O. Lt. Dipankar Ch. Das,
Resident of Subhashpalli,
P.O. & PS-Ambassa, Dist. Dhalai,
Tripura.
2. Smt. Dipa Das,
D/O. Lt. Dipankar Ch. Das,
Resident of Subhashpalli,
P.O. & PS-Ambassa, Dist. Dhalai,
Tripura.
3. Smt. Riya Das,
D/O. Lt. Dipankar Ch. Das,
Resident of Subhashpalli,
P.O. & P.S.-Ambassa, Dist. Dhalai,
Tripura.

(Claimant-respondent Nos. 2 & 3 are
minor daughters of deceased, so the
claimant-respondent No.1 being natural
guardian i.e., mother, will represent them).

4. Smt. Sadhani Rani Das,
W/O. Sri Sunil Ch. Das,
Resident of Subhashpalli,
P.O. & PS-Ambassa,
Dist. Dhalai, Tripura.

All the claimant-respondents are presently
residing at Mahadebtilla, House of
Sukumar Sukla Baidya,
P.O. and PS-Khowai, West Tripura.

..... **Claimant-Respondents.**

5. Shri Pradip Sharma,
S/O. Shri Subodh Sharma,

Resident of Vivekananda Nagar,
P.O. & PS-Ambassa, Dist. Dhalai,
Tripura (Owner of vehicle NO.TR-04-1723
Canter Truck).

..... **Owner-Respondent.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the appellant : Mr. P. Gautam, Advocate.

For the respondents : None.

Date of hearing & judgment : 18.11.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

This is an appeal by the Insurance Company challenging the award dated 18.11.2011 passed by the learned Motor Accident Claims Tribunal, Khowai, West Tripura in T.S.(MAC) No.10 of 2011 whereby the learned Tribunal has awarded a sum of Rs.4,34,000/- in favour of the claimants.

2. The claim petition was filed under Section 163-A of the Motor Vehicles Act (M.V. Act) which means that it is a claim petition based on "no fault liability". According to the claimants, the deceased was engaged as labourer for loading in the truck and while he was doing such work, the vehicle met with an accident and the deceased suffered injuries and died. The deceased was found to be earning Rs.3,000/- per month and on the date of the death he was 29 years old. The learned Tribunal has strictly followed the Second Schedule to the M.V. Act and has applied multiplier of 18 and deducted 1/3rd from the total compensation

and awarded Rs.5,000/- for consortium and Rs.2,000/- for funeral expenses. This amount being strictly in consonance with the provisions of the Act cannot be said to be exorbitant. The award is perfectly legal.

3. Mr. P. Gautam, learned counsel for the Insurance Company, raised an issue that the deceased being a passenger in a vehicle was not covered under the terms of the policy.

4. I find that this defence has not been raised either in the written statement nor such issue was ever argued before the learned Tribunal. The Insurance Company cannot be allowed to raise a new point in appeal.

5. Therefore, I find no merit in the appeal which is accordingly dismissed. No costs.

6. Send down the lower court records forthwith.

CHIEF JUSTICE