

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.58 OF 2012

Shri Goutam Das,
S/O. Shri Benu Bhusan Das,
Previously residing at Icharbil,
P.O. Karoilong, P.S. Teliamura,
District West Tripura and presently
District-Khowai-Tripura.
Presently residing in the house of
Shri Indrajit Giri of Baldakhal road,
Chandrapur, P.S. East Agartala,
District-West Tripura.

..... **Appellant-Claimant.**

- V e r s u s -

1. Smt. Anjana Roy Choudhury (Mallik),
W/O. Priyatosh Mallik of son of Late
Khagendra Mallik, resident of
Village-Hatirleta, near Rose Valley Park,
P.O.-Amtali, P.S.-Amtali,
District-West Tripura and presently
District-Sipahijala-Tripura,
Previously wife of Late Prantosh Choudhury,
(Owner of the Motor Cycle bearing
Registration No.-TR-01-B-9777).
2. Shri Maniklal Das,
S/O. Shri Matilal Das.
3. Shri Ranjit Deb,
S/O. Shri Rabindra Ch. Deb,
Sl. Nos.2 and 3 are residents of
Bhati Abhoynagar, P.S. West Agartala,
District-West Tripura,
(Owner of the vehicle bearing
Registration No.TRT-5051 (Auto Rickshaw).
4. The Branch Manager,
The New India Assurance Co. Ltd.,
Mantribari Road, Agartala,
P.S. West Agartala, District-West Tripura,
(Insurer of vehicle bearing registration
No.TRT-5051 (Auto Rickshaw).
5. Smt. Amodbasi Choudhury,
W/O. Late Sachindra Choudhury,
M/O. Late Prantosh Choudhury,
Resident of Village-Trishabari,
P.O. Moharcherra, P.S. Teliamura,

Previously District-West Tripura and present
District-Khowai-Tripura.
(Owner of the Motor Cycle bearing
registration No.-TR-01-B-9777.)

..... **Respondent-O.Ps.**

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

For the appellant	: Mr. I. Chakraborty, Advocate.
For the respondent No.1	: Mr. A. Gon Choudhury, Advocate.
Date of hearing and delivery of judgment and order.	: 19.11.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER (ORAL)

This appeal by the claimant for enhancement of compensation is directed against the award dated 30-03-2012 delivered by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in case No. T.S.(MAC) 428 of 2008 whereby the learned Tribunal has awarded a total sum of Rs.11,769/- in favour of the claimant.

2. In the claim petition the claim set up was that the claimant was travelling as a pillion rider of a motorcycle bearing registration No.TR-01-B-9777 on 25.01.2006. The motor cycle was being driven by one Prantosh Choudhury, the owner of the motorcycle. When the motorcycle reached near Teliamura Police Station, the motorcyclist lost control over the motorcycle and dashed against a telephone post. Unfortunately, the driver died as a result of the injuries received in the accident and the petitioner

received injuries. The petitioner filed a claim petition and the learned Tribunal held that the claimant was entitled to compensation of Rs.11,769/- and this amount was to be paid by the widow of the driver who stepped into the shoes of the owner. This appeal has been filed for enhancement of compensation.

3. From the facts which emerge on record, it is apparent that the claimant remained admitted in hospital for 5 days from 26.01.2006 to 30.01.2006. The discharge certificate shows that the petitioner suffered from fracture of the mandible and soft tissue trauma injury of the right shoulder. The learned Tribunal awarded Rs.3,000/- towards pain and suffering, Rs.3,169/- for purchase of medicines, Rs.1,600/- for special diet etc. and Rs.4,000/- for loss of income and, therefore, the total amount awarded was Rs.11,769/-.

4. I am clearly of the view that when the claimant remained in hospital for 5 days and suffered a fracture injury, he should have been awarded a higher amount. Keeping in view the nature of injuries and the amounts spent by the claimant which is Rs.3,169/- approximately, I assess the compensation on a global basis at **Rs.20,000/-** (rupees twenty thousand).

5. 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.11,769/- to Rs.20,000/-, i.e. by Rs.8,231/-. On this amount, the claimant shall be entitled to interest @ 6% per annum from the date of filing of the claim

petition till payment/deposit of the awarded amount in the Registry of this Court.

6. As held by the learned Tribunal, there is no evidence to show that the vehicle was insured with the Insurance Company. Therefore, the liability to pay would be of the owner. The owner has died and, therefore, the liability is of his widow but it is made clear that the widow will only be liable to the extent of the estate she has inherited from the deceased and if she has not inherited any amount from the deceased, she will not be liable to pay any amount.

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

8. Send down the lower court records forthwith.

CHIEF JUSTICE