

THE HIGH COURT OF TRIPURA
A G A R T A L A

MAC App. No. 84 of 2011

Appellant:

Shri Santanu Acharjee,
S/o. Late Shrish Ch. Acharjee,
Sidhi Ashram, Santanagar, P.S:Amtali,
District-West Tripura.

By Advocate :

Mr. T. D. Majumder, Adv.

Respondents :

1. Sri Pranballav Banik,
S/o. Late Radha Ch. Banik, Resident of West
Lasmibill, P.O. Bishalgarh, P.S- Bishalgarh, West
Tripura. (Owner of TR-01-3748 Jeep).

2. Sri Saktipada Chakraborty,
S/o. Sri Sashi Kumar Chakraborty, Dhaleswar,
Nutanpally, P.O-Dheleswar, P.S. East Agartala,
Owner of TR-01-7884, Motor Cycle)

3. M/s. New India Assurance Co. Ltd.
(Represented by the Divisional Manager,
Agartala Branch, Having its office at
Kamanchoumuni, H.G Basak Road, Agartala,
West Tripura.)

By Advocate :

Mr. P. Gautam, Adv.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **2nd July, 2015.**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation is directed against the award dated 24.05.2011 delivered by the learned of the Motor Accident Claims Tribunal, West Tripura, Agartala in T.S(MAC) No.149 of 2007 whereby the Tribunal only awarded a sum of Rs.17,000/- as compensation to the claimant.

[2] The only issue is what should be the amount of compensation.

[3] The medical evidence shows that the claimant was admitted in hospital on 21.03.2006 immediately after the accident and was discharged on 06.05.2006 and at the time of his discharge he was on crutches and was advised medication. Unfortunately, the claimant has proved no other document on records. The other documents all relate to his medical expenses. The learned Tribunal took the period of indoor treatment only upto 6th April, 2006 but after examining the discharge certificate and the signature of the doctor below the discharge certificate it is more than obvious that the claimant was in hospital up to 06.05.2006. Therefore, his total stay in hospital is 45(forty-five) days. He had fractured both bones of the right leg. The claimant has not produced any disability certificate and now I proceed to assess the compensation in accordance with law.

[4] The claimant was in hospital for 45(forty-five) days in the year 2006. He would have required attendance round the clock. If two persons were attending him and cost of one person is taken at Rs.200/- per day, the cost of two persons for 45(forty-five) days works out to Rs.18,000/-.

[5] As far as medicines are concerned, the bills produced on record are only for a sum of Rs.1980/-. Considering the fact that some bills may not have been kept and keeping in view the nature of the injuries and period of treatment, I assess Rs.10,000/- for medical treatment, transportation etc.

[6] Coming to non-pecuniary damages the learned Tribunal has only awarded Rs.7000/- to the claimant for pain and suffering. This is very much on the lower side. He is awarded Rs.20,000/- under this head.

[7] The claimant had claimed that he was working in the garage. Even if he is taken to be a daily labourer he would have had an income of at least Rs.100/- per day or Rs.3000/- per month at the relevant time and keeping in view the nature of his injuries it can reasonably assumed that he could not have worked for almost 5(five) months and is awarded Rs.15,000/- for loss of income.

[8] The total compensation is, therefore, assessed at Rs. (18,000/- + 10,000/- + 20,000/- + 15,000/-) = Rs.63,000/-. The award is accordingly enhanced from Rs.17,000/- to Rs.63,000/-. The claimant shall also be entitled to interest on the awarded sum of Rs.63,000/- @ 7.5% per annum from the date of filing of the claim petition till deposit of the amount. The learned Tribunal had held that the owners of both the vehicles were equally responsible to pay the compensation and I uphold this finding of the learned Tribunal. Therefore, the New India Assurance Co. Ltd., insurer of the vehicle No. TR-01-3748, Commander Jeep will be liable to pay half of the awarded amount and balance 50% shall be paid by Shri Saktipada Chakraborty, Respondent No.2, the owner of the motorcycle. The insurance company i.e. the New India Assurance Co. Ltd. has already satisfied its liability. Therefore, it is directed to deposit/pay its share after adjusting the amounts(s) which it has already paid or deposited in the Registry of this Court within four months from today.

[9] The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE