

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. 91 of 2011

1. Smti. Laxmi Rani Tripura
W/O. Lt. Jayanta Kr. Tripura.
2. Sri Nabajit Tripura
S/O. Lt. Jayanta Kr. Tripura.
3. Sri Bhupaljit Tripura
S/O. Lt. Jayanta Kr. Tripura.
4. Sri Kiranjit Tripura
S/O. Lt. Jayanta Kr. Tripura.

All of them are Gardhang
P.S. – Manubazar, Dist. – South Tripura.

..... *Appellant*

- Vs. -

1. Sri Pradip Chakraborty
S/O. Lt. Haripada Chakraborty
Of Manubazar, P.O. & P.S. Manubazar,
District – South Tripura.
(Owner of the offending Auto Rickshaw
Bearing No.TR03-4451).
2. The Bajaj Allianz General Insurance Company Ltd.
2B, 2nd Floor, Centre Point, G.S. Road,
Ulubari (Opp. Bora service station),
Gauhati – 781007,
Having its Branch Office at 4, Mantri Bari Road,
Agartala, P.S. West Agartala, Dist – West Tripura.
(Insurer of the offending Auto Rickshaw bearing
No.TR03-4451).
3. Sri Arabinda Tripura,
S/O. Sri Joy Mohan Tripura of
Vill – Maira, P.S. Manubazar,
District – South Tripura.
(Driver of the Auto Rickshaw bearing No.TR03-4451).

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Ms. P. Ghatak, Advocate.

For the respondent : Mr. P. Gautam, Advocate.
No.2.

Date of hearing & : 10.08.2015.
delivery of
Judgment & order

Whether fit for : No.
reporting

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation by the claimants is directed against the award dated 14.07.2011 passed by the learned Motor Accident Claims Tribunal, South Tripura, Udaipur awarding a sum of Rs.3,12,000/- in favour of the claimants.

2. The admitted facts are that the deceased who was 53 years old left behind 3 major sons and the widow. The learned Tribunal assessed the income of the deceased at Rs.3,000/- per month deducted one-fourth for the personal expenses of the deceased and accordingly, awarded compensation of Rs.3,12,000/- along with interest @ 6% per annum from the date of restoration of the case i.e. 01.09.2010. The accident took place on 11.03.2009. Thereafter, the claim petition was filed by the claimants.

3. There are only two questions which arise. The first is what was the income of the deceased. According to the son, who appeared in the witness box, the income of the deceased was Rs.6,000/- per month as used to run a rice mill. The deceased was aged 53 years old. The accident took place in the year 2009 and the learned Tribunal assessed the income at Rs.100/- per day. I am of the view that this is very much of the lower side. Even if the deceased was a labourer in the year 2009, his income would not be less than Rs.150/- per day or Rs.4,500/- per month.

4. Next comes the question of deduction. The learned Tribunal deducted one-fourth by taking into consideration the number of dependants at 4. I am not at all in agreement with the learned Tribunal. The sons are all majors. They are able bodied man. The son who appeared in the witness box was aged 28 years and in the affidavit he has stated that he is by profession, a cultivator. Therefore, it cannot be said that he was dependent upon the deceased. Therefore, I deduct one-third for the personal expenses of the deceased and the balance amount comes to Rs.3,000/- per month or Rs.36,000/- per year. Since the deceased was 53 years of age, the relevant multiplier would be 11 and the compensation works out to **Rs.3,96,000/-**. The claimants are also held entitled to **Rs.14,000/-** for the funeral expenses and the widow is held entitled to **Rs.50,000/-** for loss of consortium

Therefore, the total compensation works out to **Rs.4,60,000/-** (Rs.3,96,000/- + Rs.14,000/- + Rs.50,000/-).

5. In view of the above discussion, the appeal is allowed and the award of the learned Tribunal is modified and the compensation is enhanced from Rs.3,12,000/- to Rs.4,60,000/- i.e. by **Rs.1,48,000/-**. It appears that the insurance company has already satisfied the awarded amount and, therefore, the insurance company is directed to deposit the enhanced amount of compensation along with interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount in the Registry of this Court within 8(eight) weeks from today.

6. The learned Tribunal did not apportion the amount of compensation. It is also the duty of the Tribunal to apportion the amount. Since the amount paid by the insurance company has already been released, I cannot do anything further in the matter, but it is made clear that the enhanced amount shall be payable only to the widow-claimant Smt. Laxmi Rani Tripura and their sons will have no share in this amount. Out of this amount so deposited Rs.50,000/- (Rupees Fifty thousand) be released in her favour and the balance amount shall be kept in a fixed deposit for a period of 5 years at the first instance. Thereafter, a sum of Rs.25,000/- (Rupees Twenty five thousand) shall be released every year in

favour of Smt. Laxmi Rani Tripura till the entire amount is paid by remitting it to her bank account details whereof along with photocopy of the first page of the passbook be submitted in the Registry of this Court within 4(four) weeks from today.

7. The appeal is disposed of in the aforesaid terms.
8. Send down the lower court records forthwith.

CHIEF JUSTICE

sima