

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.73 OF 2012

United India Insurance Company Limited,
Represented by the Administrative Officer,
RMS Chowmuhani, P.S.-West Agartala,
District-West Tripura.

..... **Appellant.**

- V e r s u s -

1. Suman Kanti Saha,
S/O. Nikhil Krishna Saha of
Rani Rashmani Road, Office Tilla,
P.S.-Dharmanagar, PIN-799250,
District-North Tripura.

..... **Claimant-Respondent.**

2. Tapan Kr. Sharma,
S/O. Late Jitendra Kr. Sharma of
Park Road, Silchar, Paragana
Barakpar, P.S.-Silchar,
District-Cachar, PIN-788001.

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. S.D. Choudhuri, Advocate.

For the respondents : Mr. D.K. Biswas, Advocate,
Mr. G.K. Nama, Advocate.

Date of hearing & judgment : 02.12.2015.

Whether fit for reporting : **YES.**

JUDGMENT & ORDER(ORAL)

This appeal by the Insurance Company is directed
against the award dated 10.02.2012 passed by the learned Motor
Accident Claims Tribunal, Dharmanagar, North Tripura in case No.

T.S.(MAC) No.47 of 2010 whereby he awarded a sum of Rs.50,000/- as compensation to the claimant.

2. At the outset, I am constrained to observe that the learned Tribunal has not even gone through the provisions of the Motor Vehicles Act (M.V. Act). Though a specific issue was framed whether the claimant being owner of the vehicle is entitled to get compensation for the loss of the vehicle, the learned Tribunal has not even made reference to the provisions of the Act while deciding whether it had jurisdiction to entertain this petition or not.

3. Mr. S. Datta Choudhuri, learned counsel for the Insurance Company, submits that in view of the provisions of Section 165 and 166 of the M.V. Act, the Insurance Company is liable to pay compensation only to third parties as far as property damage is concerned. He further submits that the very basis of claims under the Motor Vehicles Act, especially 166 of the M.V. Act is fault liability. There has to be a tortious act and the owner cannot get benefit of his own wrong.

4. The Claims Tribunals have been created under Section 165 of the M.V. Act and the opening portion of Section 165(1) reads as follows:-

“165. Claims Tribunals.—(1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereafter in this Chapter referred to as Claims Tribunal) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor

vehicles, or damages to any property of a third party so arising, or both.

(emphasis supplied)

5. The last part of the opening portion of Section makes it absolutely clear that other than death or bodily injury, the Claims Tribunal can entertain a claim petition only in respect of damage to any property of a third party. The owner of the vehicle can never be termed to be a third party. He is the insured and not the third party and the remedy for such a person is either to file a petition under the Consumer Protection Act or to file a civil suit. He cannot take recourse to the M.V. Act to get his claim. There is a plethora of judgments that when an owner of a vehicle suffers injuries in an accident, he cannot claim compensation. Therefore, I am of the considered view that the claim petition was not maintainable under the provisions of the M.V. Act.

6. Therefore, the appeal is allowed and the award of the learned Tribunal is set aside. Since the award has been set aside on the ground that the Tribunal lacks jurisdiction to decide the matter, it is open to the owner of the vehicle to take recourse to any other legal proceedings and if he so advised, he can take benefit of Section 14 of the Limitation Act.

7. Send down the lower court records forthwith.

CHIEF JUSTICE