

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.100 OF 2011

The New India Assurance Company Ltd.,
Agartala Branch, Mantribari Road,
Agartala, P.S. West Agartala,
District-West Tripura,
represented by its Branch Manager.

..... **Appellant.**

- V e r s u s -

1. Sri Kanak Ranjan Chakma,
S/O. Late Madan Mohan Chakma,
of Jharjaria, Natun Bazar,
P.S. Natun Bazar, South Tripura Dist.
Pin-799101.
2. Smti. Rekhapati Chakma,
W/O. Sri Kanak Ranjan Chakma,
of Jharjaria, Natun Bazar,
P.S. Natun Bazar, South Tripura Dist.
Pin-799101.
3. Smti. Dipanika Chakma alias Dipalika Chakma (Minor),
D/O. Late Dipankar Chakma,
of Jharjaria, Natun Bazar,
P.S. Natun Bazar, South Tripura Dist.
Pin-799101.
4. Sri Atal Chakma (Minor),
S/O. Late Dipankar Chakma,
of Jharjaria, Natun Bazar,
P.S. Natun Bazar, South Tripura Dist.
Pin-799101.

(Claimant Respondent No.3 and 4 are
represented by their grandmother
Smti. Rekhapati Chakma, the claimant
respondent no.2).

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

5. Sri Sujit Chakraborty,
S/O. Swadesh Chakraborty,
of Vill-Jalefa, P.S. Sabrum,
District-South Tripura.
Pin-799145. (Owner of
Vehicle bearing No.TR-03-2926,
Commander Jeep).

6. Sri Shyamal Debnath,
S/O. Late Sankar Debnath,
of Paschim Charakbai,
P.S.-Baikhora, South Tripura,
Pin-799155.
(Driver of vehicle bearing No.TR-03-2926,
Commander Jeep).

7. The Manager,
Oriental Insurance Company Ltd.,
Udaipur Branch, Jawhar Road,
P.S.-Radha Kishorepur,
South Tripura, Pin-799120.
(Insurer of vehicle bearing No.TR-03-B-6994,
Motor Cycle).

..... **Respondents.**

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

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

For the respondent Nos.
1 to 4 : Mr. Somik Deb, Advocate.

For the respondent No.7 : Mr. K. Bhattacharji, Advocate.

Date of hearing and
delivery of judgment
and order. : 03.08.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This appeal by the New India Assurance Company Limited is directed against the award dated 04.04.2011 passed by the learned Motor Accident Claims Tribunal, South Tripura, Udaipur in case No.T.S.(MAC) 62 of 2010 whereby he awarded a sum of Rs.20,77,930/- in favour of the claimants, out of which Rs.2,00,000/- each was given to the mother and father and the remaining amount of Rs.16,77,930/- is to be divided equally between the two minor children.

2. The undisputed facts are that the deceased Dipankar Chakma along with his wife Smt. Pushpa Rani Chakma were travelling on motorcycle bearing registration No.TR-03-B-6994 on the Udaipur-Agartala highway. At about 10 a.m. at Gulurai Bari Chowmuhani the offending commander jeep bearing registration No.TR-03-2926 came from the opposite side and hit the motorcycle and both Dipankar Chakma and Pushpa Rani Chakma received grievous injuries. They were taken to the hospital but unfortunately died as a result of the injuries sustained. The claimants are the parents and the minor children of the deceased Dipankar Chakma. The learned Tribunal awarded compensation as aforesaid.

3. The main ground raised on behalf of the Insurance Company is that the claimants have not examined any eye witness and even the person who lodged the FIR has not been examined and lastly, it is contended that since there was a head on collision, it may be presumed that 50% of the negligence was of the deceased himself.

4. I find no merit in any of these contentions. This is a case where two of the main claimants were minors. In case, the Insurance Company wanted to prove contributory negligence of the deceased, then nothing prevented the Insurance Company from summoning the driver of the commander jeep and examining him to prove how the accident had occurred. Nothing prevented the Insurance Company from even examining the person who was the author of the FIR.

5. In the present case, no effort was made by the Insurance Company to examine any witness and, therefore, when two people had died and the police case had been filed against the driver of the jeep, the learned Tribunal was justified in holding that the driver of the jeep was responsible for the accident. As far as quantum is concerned, the amount awarded is absolutely just and reasonable.

6. Therefore, I find no merit in the appeal which is accordingly dismissed.

7. Send down the lower court records forthwith.

CHIEF JUSTICE