

THE HIGH COURT OF TRIPURA

A G A R T A L A

CRP No. 72 of 2014

Petitioner :

**The Society of the Father of Holy
Cross Moreau Community House,**
Durjoynagar, Holy Cross Road, Agartala-
799009, West Tripura. (Represented by Fr.
Thomas Pereira CSC, Administrator of Holy
Cross School, Agartala.)

By Advocate :

Mr. P. Rathore, Adv.

Respondents :

- 1. The State of Tripura,**
(notice to be served through the Chief
Secretary to the Govt. of Tripura, Agartala,
Capital Complex, West Tripura, Pin-799009)
- 2. The Joint Transport Commissioner**
Office of the Joint Transport Commissioner,
Agartala, Tripura (West) Pin-799001.
- 3. The Registering Authority,**
Govt. of Tripura, Transport Department
Agartala, Tripura (West), Pin-799001.
- 4. Shri Digbijoy Debnath,**
S/o. Late Krishnalal Debnath of Vill-Chesrimai,
P.S-Bishramganj, Dist. Sipaijala, Pin-799103.
- 5. Smt. Kalapana Debnath,**
D/o. Late Krishnalal Debnath,
W/o. Shri Swapan Debnath of Vill-Chesrimai,
P.S-Bishramganj, Dist. Sipaijala, Pin-799103.

By Advocates :

Mr. S. Chakraborty, Addl. G. A.
Mr. H. K. Bhowmik, Adv.

B E F O R E

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **17th June, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

Sri S. Chakraborty, learned Addl. G.A pursuant to the directions dated 28.04.2015 has produced on record the record relating to vehicle No. TR-01-T-0556. The screen report is taken on record and according to this screen report vehicle was owned by one Ranjit Debbarma and it is a light motor vehicle (Jeep/Tata sumo).

[2] This petition under Article 227 of Constitution of Indian is directed against the order dated 28.06.2014 passed by the learned Civil Judge, Jr. Division whereby he rejected the application filed by the petitioner i.e. the Society of the Father of Holy Cross Moreau Community House (for short, the petitioner-society) for permitting them to call for the documents lying in the custody of Divisional Manager, Tata Motors Limited.

[3] Briefly stated the facts relating to the filing of the case are that a claim petition bearing No.TS(MAC) 382 of 2010 was filed by claimants, Shri Digbijoy Debnath and Smt. Kalpana Debnath before the MACT, Agartala claiming that their father Krishnalal Debnath died as a result of injuries received in a motor vehicle accident on 22.03.2010 at about 10 am near Shibbari ONGC Camp on Udaipur-Agartala road under Bishramganj police station. The FIR No.13 of 2010 was registered on 22.03.2010 itself. On the basis of a screen report issued by the Transport Department, Government of Tripura, the petitioner-society was impleaded as a respondent being the owner of the vehicle. The screen report which is attached with the petition mentions that the date of registration is 04.11.1993, the date of manufacture of the vehicle is 1993 and the vehicle was owned by the Chairman, Father of Holy Cross School, Durjoy nagar, Tripura West, Agartala. The vehicle is

shown to be a Tata Sumo Deluxe vehicle. The chassis number is 368020 and the Engine number is 847607. The petitioner-society denied that any such vehicle was owned by it. It took the stand that it was never the owner of vehicle No.TR-01-0556. That claim petition was pending before the Motor Accident Claims Tribunal, Court No.2, West Tripura.

[4] It would also be pertinent to mention that the petitioner-society had filed an application under the Right to Information Act asking the transport authority to explain how it was shown to be owner of the vehicle in the screen report. In reply, the Joint Transport Commissioner stated that records are kept in a store room and the office has been shifted twice and therefore, he was unable to supply the information. The authority of the school filed a suit challenging the validity of the screen report and claimed that no such vehicle was ever owned by it. In that suit the State never put in appearance. During the course of the suit, the school authorities approached the manufacturer through the dealer i.e. Tata Motors Limited with regard to the details of the vehicle having the said chassis number and engine number. In response to the inquiry of the school and the authorized signatory of the Tata Motors Limited having its office at Kolkata issued a certificate that no vehicle bearing chassis No.368020, Model-Tata Sumo Deluxe, year of manufacture-1993 was manufactured by it because in their record there was no such chassis number. It was also mentioned that in the screen report that this vehicle mentioned to be a petrol driven vehicle whereas all sumo vehicles are Diesel driven vehicles. It was also mentioned that the number of seats in the screen report was mentioned to be 3(three) whereas the sitting capacity of a sumo including the driver is 6 to 10 but not only three. Most importantly, it was mentioned that sumo vehicles were manufactured for the

first time in 1994 and therefore, there could have been no sumo vehicle manufactured in the year 1993. After receipt of this information the petitioner-society applied to the Civil Court for permission to produce the record from Tata Motors Limited but this application has been rejected. Thereafter this petition has been filed before this Court. This Court after issuing notice in the petition had directed the Joint Transport Commissioner, Agartala to appear in-person with the record of registration of TR-01-0556.

[5] Pursuant to this order the Joint Transport Commissioner appeared in person on 16.01.2015 and produced the record of TR-01-0556. When I perused this record I found that the vehicle which was registered was shown to be owned by the petitioner society. The vehicle was described to be a new vehicle and was described to be a medium motor vehicle. The name of the dealer was shown to be Telco and the type of body to be a van. The year of manufacture was 1993 and the engine number and the chassis number were those which were depicted in the screen report. Thereafter, I had asked the petitioner-society to produce its entire books of accounts etc. to show whether such vehicle was never owned by it. Over period of time the petitioner-society has produced all the records before me and none of these records including the account books etc. for the years 1992-93, 1993-94, 1994-1995 etc. show that the vehicle No.TR-01-0556 was ever owned by the petitioner-society.

[6] It would be pertinent to mentioned that one Sri Saroj Bhattacharjee, Inspector, Officer-in-Charge of the Bishramganj Police Station also appeared in Court on 28.04.2015 pursuant to the orders of this Court and he submitted that in the criminal case the number of the vehicle involved

in this accident has been shown to be TR-01-T-0556 and not TR-01-0556. The petitioner-society produced all its records and from the records I find that they are owner of other vehicles but prima facie it appears not to be owner of the vehicle No. TR-01-T-0556.

[7] The State did not care to contest the suit and the petitioner-society had a right in my view to summon the officials from Tata Motors Limited to prove their case. Without going into the merits at this stage there is sufficient material to show from the certificate of the Tata Motor Limited that no sumo vehicle was manufactured prior to 1994 and therefore, the question of Sumo vehicle purchased in 1993 and being registered in 1993 would not arise if that be the position. This Court is not deciding whether what is stated in the certificate is correct or not. That is for the Courts' below to decide. However, it can safely be said that the petitioner-society has placed sufficient material on record to cast doubt on the screen report issued by the State authority because the record of the State is totally deficient and is not supported by the record of the company.

[8] The question that arises is what should this Court do?

[9] I am of the view that the petitioner-society need not even have filed a suit for cancellation of the screen report and they were entitled to lead evidence in the motor accident case before the Motor Accident Claims Tribunal to show that the screen report cannot be relied upon and that the screen report is illegal. I am also of the view that now in view of the stand of the police authority that the vehicle involved was not TR-01-0556 but TR-01-T-0556, it would be appropriate for the claimants to decide what they want to do in the matter. The question whether the vehicle was actually owned by

the petitioner-society or not need not be decided in a separate suit and this question can be answered by the Motor Accident Claims Tribunal also.

[10] Therefore, I dispose of this petition with the following directions:

- (i) That the suit of the plaintiff-petitioner is misconceived.*
- (ii) However, to do justice between the parties the petitioner-society herein shall be at liberty to lead evidence including evidence of Tata Motors Limited and any other evidence which they may choose to lead before the Motor Accident Claims Tribunal to prove their stand that the petitioner-society is not the owner of the vehicle whether it be TR-01-0556 or TR-01-T-0556.*
- (iii) The suit accordingly stands disposed of but it is made clear that this question shall be decided by the Motor Accident Claims Tribunal.*
- (iv) The parties have led their evidence before the Motor Accident Claims Tribunal but keeping in view the fact that the suit was pending the Motor Accident Claims Tribunal is directed to permit the petitioner-society who is also the respondent before the Motor Accident Claims Tribunal to lead fresh evidence to prove its case and thereafter the claimant petitioner and the insurance company shall also be at liberty to lead evidence to prove their case.*
- (v) In case the claimant decide to amend the petition and change the number of the vehicle to TR-01-T-0556 then obviously the owner of that vehicle will have to be made a party also and the said owner would also have the right to defend the claim petition on all ground.*

It is made clear that both on the issue of the vehicle involved in the accident as well as the ownership thereof all the parties to the petition shall be entitled to lead fresh evidence in support of their case.

[11] The petition is disposed of in the aforesaid terms. No costs.
Send down the LCRs forthwith.

CHIEF JUSTICE