HIGH COURT OF TRIPURA
AGARTALA

MAC APP. No.28/2020

Smt. Manna Deb(Das) and Ors.

…….. *Appellant(s).*

Vs.

The Oriental Insurance Company Ltd. and Anr.

…….. *Respondent(s).*

For Appellant(s) : Mr. A Bhowmik, Advocate.
For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

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11/12/2020

Though served no one appears for the respondents. This appeal is filed by the heirs of the deceased scooterist who died in a vehicular accident. Admitted fact is that no other vehicle was involved in the accident. The Claims Tribunal, therefore, dismissed the claim petition on the ground that the deceased cannot be stated to be a third party. Learned counsel for the appellants also did not dispute this position. He had previously, however, submitted and it was recorded in the order dated 9th October, 2020 that the deceased had taken a personal insurance policy of Rs.1,00,000/- and even this amount the insurance company had not paid. For this limited purpose, therefore, I had issued notice, hoping that the insurance company would appear and if the facts stated by the claimants

that the deceased had taken a personal insurance was correct, would take a reasonable stand and pay up the insured amount at least. However, unfortunately, despite service of notice there is no representation of the insurance company.

That being the position, the initial question revives itself. When the deceased himself was the driver of the sole vehicle involved in the accident can his insurance company be called upon to pay compensation to the heirs under Motor Vehicles Act? By way of settled legal position, since the accident was not as a result of negligence of any person other than the deceased, the insurer cannot be asked to pay compensation to the heirs of the deceased. This, however, does not mean that if the insurance company has issued an insurance policy of personal accident, it can avoid its liability to pay the same. This only means that for claiming such amount, if the same is not paid, motor accident claim petition would not be maintainable.

In the result, this appeal is dismissed leaving it open to the appellants to pursue appropriate remedy in law. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI, CJ)

Sukehendu