HIGH COURT OF TRIPURA
AGARTALA

MAC APP No.74/2019

Sri Ali Mohan Tripura and another

.....Appellant(s)

Versus

The Commander, 755 BRTF, GREF, C/O. 99 APO and others

.....Respondent(s)

For Appellant(s) : Mr. S. Datta, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

10/12/2020.

This appeal is filed by the original claimants to challenge the judgment and award dated 21.06.2019 passed by the Motor Accident Claims Tribunal, West Tripura, Agartala in T.S. (MAC) No.181 of 2017.

2. Brief facts are as under:

Claimants are sons of deceased Kalai Chan Tripura @ Kalichand Tripura. According to the claimants, the father Kalai Chan was proceeding towards Chalcherra as a gratuitous passenger in GREF vehicle on 10.06.1997. At about 5.15 in the morning, when the vehicle was travelling between Chamanu and Gobindabari road, some extremists started firing

on the vehicle which resulted into serious bodily injuries to Kalai Chan leading to his death. Kalai Chan left behind his widow, a daughter and two minor sons. For several years thereafter, no steps were taken by the heirs of the deceased for claiming compensation from the Government or any other authority. However, nearly 20 years after the incident, the appellants filed a claim petition before Motor Accident Claims Tribunal contending that the death of their father was an accidental death during the use of a motor vehicle and that the same occurred on account of negligence on part of the driver of the vehicle. They made a claim of compensation of Rs.16,16,000/- from the Government and its authorities in the said claim petition.

3. While disposing of the claim petition, the Claims Tribunal first considered the question whether the death could be stated to have occurred in course of a use of a motor vehicle and whether the claimants were entitled to any compensation. With respect to the first issue, the Claims Tribunal held that the death of the father of the claimants was on account of negligence on part of the driver and in course of use of a motor vehicle. In the process, the Claims Tribunal noted that the respondents have not produced any evidence to show that the claimant was negligent. In the ultimate outcome, the Tribunal held that the deceased sustained fatal injuries in motor accident, which was caused by driving of the vehicle.

4. However, when it came to the question of awarding compensation, the Tribunal found no reliable evidence of income of the deceased. He dismissed the claim on the ground that the same was lodged after long delay of about 20 years from the date of the accident which delay was un-explained. The original claimants have therefore filed this appeal.

5. Having heard learned counsel for the appellants, I have serious doubt about the correctness of the Tribunal's finding with respect to the first issue itself. Prima facie, the evidence on record would suggest that the deceased was travelling in a Government vehicle when the vehicle came under attack from extremists. In the process, it is difficult to attach any negligence on part of the driver which can be said to have led to the unfortunate death of the father of the claimants. The Claims Tribunal merely found that the opponents had not established the negligence of the victim. That in my opinion is not sufficient to hold that the driver was negligent in causing the death. Learned counsel for the appellants relied on certain decisions reference to which is not necessary since I am not finally deciding this issue in the present appeal.

6. It is undisputed that the appeal was lodged in the year 2017 when the incident took place in the year 1997. Even if it is believed that the claimants were minor at the time of the death of their father, the fact remains that the widow of the deceased was alive and major. She never

filed any claim petition even the claimant No.1, I am informed, became major in the year 2011. The claim petition was filed in the year 2017. This gross delay and laches would make it impossible to collect reliable evidence of the occupation and income of the deceased. All in all, I do not find that the Claims Tribunal has committed any error in dismissing the claim petition.

7. In the result, appeal is dismissed. Pending application(s), if any, also stands disposed of.

Record, if any, may be transmitted to the Trial Court.

(AKIL KURESHI), CJ

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HIGH COURT OF TRIPURA
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