

GAHC020001112023

2025:GAU-NL:359



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : MACApp./1/2023

THE ORIENTAL INSURANCE CO. LTD
HAVING ITS REGISTERED AND HEAD OFFICE AT ORIENTAL HOUSE
A-25-27, ASAF ALI ROAD NEW DELHI-11002 AND REGIONAL AND
DIVISIONAL OFFICES IN SEVERAL PLACES, INCLUDING A
REGIONAL OFFICE AT GUWAHATI, ASSAM AND A DIVISIONAL
OFFICE AT DIMAPUR, IN THE STATE OF NAGALAND

VERSUS

SMT. NIVA GOGOI AND 2 ORS
W/O SRI. AMRIT KR. GOGOI, R/O QUARTER NO.16-A, ASSAM STATE
ZOO COMPLEX, R.G BARUAH ROAD, P.S. GEETANAGAR, PIN-
781021, GUWAHATI, KAMRUP-M, ASSAM

2:SHRI. MIRAJUL ALEM
S/O MANSER ALI
R/O H.NO- 45
MANDAKINI PATH
KALYANPUR
GANESHGURI
PIN-781006
- OWNER OF HERO MAESTRO SCOOTY AS-01-BW-3784

3:SHRI. SUBHASH SINGHA
S/O LATE BINOD BEHARI SINGHA
R/O PADMERPAR PAITUR BAZAAR
P.O AND P.S-KAILASHSAHAR
UNAKOTI. PIN-799279. DIST-TRIPURA- DRIVER OF HERO MAESTRO
SCOOTY AS-01-BW-378

Advocate for the Petitioner : V. DEVNATH,

Advocate for the Respondent : TONGPOK PONGENER,
AKUM AIER,
T ATALU CHIZO,
M. DIVINA THERIE,
VIKEHIENUO VIMERHA,
ASEN S LONGKUMER,
JENDEMO TSANGLAO,
LAKNYEI PHOM,
TONGPANG JAMIR,
M. ATHAI,
S REOPI,
AKUM JAMIR

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

JUDGMENT & ORDER (CAV)

Date : 01-08-2025

The appellant in this case is the insurer i.e. Oriental Insurance Company Ltd. whereas the respondents are 1) Smti Niva Gogoi, claimant, 2) Shri Mirajul Alem, owner of the scooty No. AS-01-BW-3874 and 3) Shri Subhash Singha, driver of the same scooty. The insurer is aggrieved by the Judgment and Award dated 29.08.2022 passed by the learned Member, Mokakchung, Nagaland in connection with MAC Appeal No.18/2019. It is contended that the claimant is not entitled to an award of Rs. 8 Lacs with interest thereon. The claim was not maintainable and ought to have been dismissed at the threshold for want of jurisdiction as the accident allegedly occurred at Guwahati and the claimant is not a resident of Nagaland.

2. It is further contended that the claimant has failed to prove rash and negligent act of the driver of the motor cycle bearing Registration No. AS-01-BW-3784 and thereby the insurer is not liable to pay the

compensation.

3. It was certified by the doctor that the claimant, after the accident, has suffered 10% permanent disability but the disability certificate was not proved by examining the doctor who had issued the certificate. The loss of income ought not to have been calculated as the claimant was drawing salary after obtaining 60 days commutative leave and half pay leave for 120 days for her treatment at Dispur Hospital, Guwahati.

4. The learned Tribunal had overlooked the vital aspect of the case. The attending doctor and author of the certificate were not examined to prove the extent of disability the claimant has suffered. The final investigation report was also not produced apart from the fact that a mere accident information report was produced and thus, the impugned judgment and order dated 29.08.2022 is hereby liable to be set aside.

Neither the accident took place in the State of Nagaland nor the claimant is a resident of the State of Nagaland and thus the impugned order is liable to be set aside.

5. *Per contra*, learned counsel for the respondent No.1 i.e. the claimant has submitted that the issue of jurisdiction has been raised for the first time in this appeal and thus the argument on the point of jurisdiction pales into insignificance. No issues were framed regarding the issue of jurisdiction and thus the question of jurisdiction does not arise at all. It is contended that the learned tribunal has correctly passed the order on the basis of Exhibit- P-1 motor accident report issued by the officer-in-charge, Geetanagar PS, Guwahati and on the basis of the written statement submitted by the owner of the vehicle who has admitted the fact of the

accident which took place on 21.02.2019. It has been correctly held by the learned tribunal that the evidence of PW 1 and 2 clearly proves that the accident dated 21.02.2019 was the result of rash and negligent act of the rider of the scooty bearing registration No. AS-01-BW-3784.

6. Heard Mr. V.Debnath, learned counsel for the appellant and Mr.T.Pongener, learned counsel for the respondent No.1/claimant.

I have considered the submissions at the Bar with circumspection.

7. The genesis of the case was that on 21.02.2019 at about 6 am, Smti Niva Gogoi was approaching the Zoo main gate, crossing the zebra line, when a scooty bearing registration No. AS-01-BW-3784 dashed against her causing grievous injuries on her person. The scooty was driven by the opposite party No. 3 in a rash and negligent manner resulting in the accident. The claimant sustained grievous injuries and was taken to Midland hospital in Guwahati and thereafter she was shifted to Dispur Hospitals Pvt. Limited, Ganeshguri, Guwahati. The claimant then filed a petition under Section 166 and 147 of the MV Act, 1988 against the driver, owner and the insurer of the aforementioned scooty. This petition was registered as MAC Case No. 18/2019 and notices were issued to the insurer, owner and driver of the scooty i.e. the respondent Nos. 1, 2 and 3 respectively. Written statement was filed on behalf of the insurer and owner of the vehicle and the tribunal framed issues to adjudicate the claim and thereafter examined two witnesses produced by the claimant.

8. The core question in this case is the issue of jurisdiction which has been brought up at the stage of appeal and not at the stage of the pendency of the proceeding. Indeed no issues were framed on the

jurisdiction by the Member of MACT at Mokokchang in Nagaland as the issues framed were as follows:

“Issue No.1: Whether the claimant was involved in the accident on 21-02-2019? If so, whether the offending scooter AS-01-BW-3784 was rash and negligently driven?

Issue No.2: Whether the offending scooter was having requisite documents and effective driving license at the time of accident?

Issue No. 3: Whether the claimant suffered permanent disability and to what extent?

Issue No.4: What was the age and income of the claimant at the time of accident?.

Issue No.5: Whether the claimant is entitled for compensation? If so, to what extent and payable by whom?”

9. Now the point to ponder is whether the issue of jurisdiction which was not raised at the appellate stage will render the claim petition non maintainable. The claimant adduced her evidence as PW-1. She categorically stated that at the time of the accident, she was serving as dealing assistant in the Forest department with monthly salary and was earning Rs. 45, 350/- and has exhibited the following documents:

1. Exhibit P-1 : Motor accident report
2. Exhibit P-2 : Complaint report
3. Exhibit P-3 : Medical report
4. Exhibit P-4 Disability certificate
5. Exhibit- P-5, Medical Bills voucher
6. Exhibit P-6, Driving license of the driver
7. Exhibit P-7, Registration Certificate
8. Exhibit P-8, Insurance policy
9. Exhibit P-9, PAN card
10. Exhibit P-11, disability certificate

10. In her cross-examination, she affirmed that she was working in the Forest Department on a monthly salary of Rs.45,350/-.

11. On scrutinizing the claim, it is manifestly clear that there is no hint in the pleadings, but through her evidence the claimant stated that she is a resident in the State of Nagaland at present. Thus, it can be safely held that it is ex-facie clear that claim petition was filed beyond the realm of jurisdiction.

12. It is true that the issue of jurisdiction was not raised before the tribunal and generally owing to the waiver of objection, the issue of lack of jurisdiction cannot be raised at the appellate stage. An appellate court is not required to entertain new jurisdictional objection unless it is a case of complete lack of jurisdiction. Even if the case was fairly tried and

decided, this accident occurred in the State of Assam and the claimant is an employee in the State of Assam whereas the case was filed before the MACT, Mokakchung in the State of Nagaland *dehors* jurisdictional criterion envisaged under Section 166(2) of the Motor Vehicles Act, 1988, which reads as follows:

“(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed”

13. In this case, the claimant is a resident of Assam whereas the driver Subhash Singha is a resident of Tripura and the owner is a resident of Assam. Neither the owner nor the driver are residents of Nagaland.

14. Even the policy issued by the respondent No. 1 was not issued from Divisional Office at Dimapur. It appears that the Insurance Company has a Divisional Office in Dimapur and not in Mokokchung. The insurer has however annexed certain documents relating to the policy, leave granted to the claimant and certificate by the Chairman of Dilong Ward Yimden, Mokokchung. This certificate forwarded by the investigator of the Insurance company proves that the claimant was not residing at Mokokchung at least till 02.10.2020.

15. The decision of the Hon'ble Supreme Court in ***Malati Sardar vs. National Insurance Company Limited & Ors*** reported in (2016) 3 SCC 43, has been relied upon by the respondents. It has been held by the Hon'ble Supreme Court that:-

“ The provision in question, in the present case, is a benevolent provision for the victims of accidents of negligent driving. The provision for territorial jurisdiction has to be interpreted consistent with the object of facilitating remedies for the victims of accidents. Hyper technical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the insurance company, which is the main contesting parties in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this Court in Mantoo Sarkar (supra), contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21 CPC. ”

I would also like to refer to a decision of this Court in **CRP 186/2017**, in connection with parties, **Md. Sukkur Ali Barbhuiya vs. Md. Zakir Hussain Barbhuiya and Anr**, wherein vide order dated 04.12.2020, it has been held that:-

“ If we consider the aforesaid ratio, in my considered opinion, the learned court below passed the impugned order dated 24.08.2016 on wrong application of its jurisdiction inasmuch as none of the parties to the proceeding raised the issue of any prejudice caused to them due to the proceeding being initiated in the said Tribunal at Silchar. Further admittedly, there is an office of the Insurance Company i.e. Bajaj Allianz General Insurance Company Ltd. situated at Silchar having its business there. Upon the considerations, that the claimant petitioner is a permanent resident of district-Hailakandi, the accident took place in the district of Hailakandi and the owner and driver are also residents of district – Hailakandi, the learned Tribunal refused to entertain the said MACT application which is in clear contradiction to the ratio laid down in Malati Sardar-Vs- National Insurance Company Limited and Others reported in (2016) 3 SCC 43 inasmuch as admittedly the office of the Bajaj Allianz General Insurance Company Ltd. is situated at Silchar and having its business. Accordingly, this Revision Petition is allowed thereby setting aside the impugned order dated 24.08.2016 passed by the learned Member, Motor Accident Claims Tribunal, Cachar at Silchar in MAC

Case No.1059/2010 with a direction to accept the claim petition filed by the petitioner and decide the same as per law without further delay."

16. Reverting back to this case, it is apparent that there is absolute lack of jurisdiction as the appellant has presented itself as a company with its Head Office at Oriental House A-25/27, Asaf Ali Road, New Delhi with its Divisional offices in several places including a divisional office at Guwahati and a divisional office at Dimapur in the State of Nagaland.

17. Will it be a hyper technical issue if this case is rejected on the issue of territorial jurisdiction? It has to be borne in mind that there has to be a failure of justice if question of jurisdiction is raised at the stage of appeal and to figure out if there has been a failure of justice, the merits of this case also has to be delved into.

18. The argument on behalf of the insurer that rash and negligent act could not be proved has no leg to stand. The respondent herself is a victim and she has categorically stated in her evidence as well as her pleadings that the Scooty bearing registration No. AS-01-BW3874 was driven by the rider in a rash and negligent manner. Geetanagar P.S. Case No. 94/2019 was registered against the rider of the Scooty which is clearly reflected in Ext P-2. The claimant/respondent No. 1's evidence is substantiated by the evidence of an eye witness Kamal Gogoi who categorically stated that on 21.02.2019, while the claimant was standing near a shop, a Scooty bearing registration No. AS-01-BW3874 proceeding with excessive speed without horn blaring, knocked down one pedestrian (claimant) standing on the roadside of the zebra crossing line. This corroborating evidence could not be contradicted or controverted through the cross-examination of the witnesses.

19. It is further contended that the respondent is not entitled to compensation as the permanent disability certificate clearly indicated that the respondent No. 1 was suffering from 10% permanent disability. Moreover, the author of the certificate was also not produced as witness to prove the certificate. Ext-11 is the disability certificate. This certificate was issued by the Medical Officer of Impur Diagnostics centre on 05.11.2019. According to the opinion of the Medical Officer, Dr. S. S. Ahaba, the respondent was suffering from 10% right lower limb disability which is permanent in nature and improvement is unlikely. Ext P-3 is another certificate issued in favour of the claimant that the claimant is suffering from rheumatoid arthritis with secondary osteoarthritis of both ankles and will require further treatment and this certificate was issued on 26.11.2019. It is further mentioned in the certificate that the claimant underwent operation for fracture on 23.02.2019 and was under his treatment and she was unable to walk briskly, stand, squat or climb stairs. This certificate dated 26.11.2019 was issued at Dispur Hospitals Private Limited.

20. It is needless to mention at this juncture, that the certificates issued by the Medical Officers have not been proved by the claimant. Considering the fact that the claimant has approached this Court under beneficial legislation, hyper technicalities do not thwart the pleadings and the evidence. Assuming the claimant is suffering from 10% permanent disability of her right lower limb, whether the claimant is entitled to the compensation impugned by the insurer? The discharge certificate marked as Ext-3 reveals that the claimant/respondent No. 1 was admitted on 21.02.2019 and discharged on 27.02.2019. The claimant has indeed

suffered grievous injuries and titanium plate and leg screw were fixed on the injured leg after surgery.

21. The appellant has relied on the decision of the Hon'ble Supreme Court in ***Raj Kumar vs. Ajay Kumar & Anr reported in (2011) 1 SCC 343***, wherein it has been observed that:-

“ 13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (1) the claimant is totally disabled from earning any kind of livelihood, or (#) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (n) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently the percentage of loss of earning capacity is not the same as the percentage of permanent disability except in a few cases where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent

disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors. "

In this case, emphasizing on the fact that the Doctors who provided treatment and issued certificates were not examined as witnesses, learned counsel for the appellant has also relied on the decision of this Court in ***National Insurance Co. Ltd vs. Chandreswar Thakur & Ors reported in 2001 (1) GLT 393***, wherein it has been observed that:-

“2. The whole contention of the appellant is that the learned Tribunal arrived at conclusion that the claimant suffered permanent disability without examining the doctor. Since the claimant sustained injury it was incumbent on the part of the claimant to have examined the Doctor and establish its case as to what percentage of permanent disabilities was suffered by the claimant. It would clearly appear that besides submitting a certificate from the Doctor, no doctor who has treated the claimant have been examined by the claimant. Non-examination of the doctor to establish the extent of disabilities suffered by the claimant deny the opportunity to the Insurance Company to cross-examine the Doctor. In our Jurisprudence witnesses put up by either of the parties is subject to cross-examinations o as to test veracity or the truthness or correctness of the statement of the witnesses In the instant case, no Doctor has been examined to establish the extent of disabilities suffered by the claimant and in that view the permanent disability has not been proved Apart from that the Tribunal saddled the liability with the Insurance Company on the compensation assessed on the basis of permanent disability suffered by the claimant, without giving any opportunity of cross-examining the Doctor.

(3) In the result the impugned judgment and award dated 14. 10

99 passed by the Tribunal in MAC Case No. 84/98 is hereby set aside. The case is remanded to the Tribunal to start the proceeding afresh from the stage of examination of Doctor Needless to say that the Insurance Company would be entitled to cross-examine the Doctor. "

23. The claimant has stated in her cross-examination that she was still continuing her service, but she may discontinue her service owing to the injuries sustained by her in the accident. It was therefore held by the learned Tribunal that the claimant, at the time when her evidence was recorded was in active Government service. The claimant has also stated that she availed 60 days commuted leave i.e., 120 days of half pay leave for her treatment. So, there appears to be no loss of income during the span of commuted leave to the extent of half of 120 days when she was availing half pay leave for her treatment. Although the claimant has produced her leave documents, no documents relating to grant of leave extended to the claimant has been exhibited by the claimant to substantiate her leave period. The claimant has thus failed to prove even on the touchstone of preponderance of probabilities that she suffered loss of income as she was on leave for 120 or 60 days. The discharge certificate clearly reveals that she was under treatment in Dispur Hospitals Private Limited for a week only i.e., from 21.02.2019 up to 27.02.2019.

24. The insurer has however annexed certain documents relating to the leave granted to the claimant and certificate by the Chairman of Dilong Ward Yimden, Mokokchung. This certificate proves that the claimant was not residing at Mokokchung, at least till 02.10.2020 as forwarded by the investigator of the Insurance company.

25. It is apparent that the investigator during the investigation has

forwarded the documents to the Insurance company and it is thus submitted by the appellant that the claimant was granted 2 (two) months commuted leave w.e.f. 20.02.2019 vide Office order No. 299 dated 06.03.2019 by the Office of the Principal Chief Conservator of Forest, Wildlife, (CWLW), Assam, which is half pay leave of 120 days as per Sub-rule c of Rule 13 of Leave Rules, 1934 as amended. Thus, it is not true that the petitioner was granted 120 days half pay leave but she was granted 60 days commuted leave and there was no loss of income. It is further submitted that vide Office order dated 03.04.2019 vide Order No. 352, the claimant/respondent No.1 was again granted 60 days commuted leave equivalent to half pay leave for 120 days w.e.f. 22.04.2019 up to 22.06.2019 from the Office and her leave credit was shown as 169 days which was deducted from 263 days.

So stating this, the argument of the appellant is that there was failure of substantial justice as the claimant who was earning Rs. 45,340/- per month was erroneously awarded loss of income to the tune of Rs. 75,000/- despite the fact that the appellant was granted commuted leave and there was no loss of income.

26. I find force in the argument of the learned counsel for the appellant. This is a case where there is absolute lack of territorial jurisdiction. Moreover, when the claimant's age was recorded on 11.11.2019, her age was shown as 53 years and in the claim petition dated 10.09.2019, her age was reflected as 53 years. When the claimant has discharged her duties as a Dealing Assistant till the age of 53 years and above, this cannot be a case of early retirement on account of 10% injury suffered by her on her right lower limb. The claimant is a Dealing Assistant and she

has been discharging her duties as Dealing Assistant even after the accident, which took place in the month of February. When her evidence was recorded in the Tribunal on 11.11.2019, she has categorically admitted that she was till serving as Dealing Assistant in the Department of Forest, Dispur with a monthly salary of Rs. 45,340/-. She has not taken voluntary retirement at that time. As a Dealing Assistant, 10% of disability of her leg will not hinder or restrict her performance in the Office resulting to any loss of income.

27. The disability certificate was not issued on examination of the claimant by a Medical Board. In the Workmen's Compensation Act 1923 (The Act 1923) in the list of injuries to be included in permanent partial disablement of the workman, 10% permanent disability of lower left leg inserted with plate or screw is not included in Part II of schedule I. This injury is not included as 3% injury also under the description of other injuries in the amended Employee's Compensation Act, 1923. 10% disability owing to insertion of titanium Plate or iron screw is also not included under the head of permanent injury in schedule I of the Employee's Compensation Act, 1923 also. Such injuries are not included even within the description of other injuries. Moreover, the doctor who has issued the injury certificate has not been examined and the doctor who provided treatment to the claimant and who has certified that the claimant is suffering from Rheumatoid arthritis has also not been examined as a witness.

28. The learned counsel for the appellant has relied on the decision of this Court in ***Oriental Insurance Co. LTD. Vs. Lalliansawmi and Another reported in 2010 (2) GLT 176***, wherein it has been

held that:-

“(10). The learned counsel for the appellant pointed out that the learned Tribunal relied on the disability certificate to conclude claimant’s permanent disability of 55% without examining the Doctor, who had evaluated and issued the Certificate of disability to the claimant. Learned counsel further contended that the certificate purported to be issued by the Medical Board of Champai bore the signatures of the Doctors working in Civil Hospital, Aizawl.

(11). As a matter of fact, in assessment of percentage of disability of an injured a medical expert in the field plays a crucial role. On the basis of such assessment a Tribunal embarks on evaluating the loss of earning capacity triggered by disability of the claimant. The degree of disability and loss of earning capacity are not synonymous. Loss of earning capacity cannot be assessed by resorting to mere guess work. The Tribunal should, for all practical purposes, take assistance of a qualified medical practitioner to assess the extent of permanent disability of the claimant. On the other hand, non examination of the Doctor as a witness, who gave the certificate of disability, would deprive the Insurance Company to test the veracity and/or of the truthfulness of the statement and correctness of the documents placed on records by the claimant before the Tribunal. The Tribunal is required to assess the loss of earning capacity keeping in view the percentage of the disability suffered by the claimant. Therefore, the assessment and evaluation of the injury of the claimant is of paramount significance in proper adjudication of the claim petition. ”

29. From the above discussions, it is apparent that the evidence of medical witness is essential for assessment of the percentage of disability sustained by the injured to enable the Tribunal to adjudicate the claim. However, in the instant case the certificate of disability was relied on by the learned Tribunal without examining the Doctor who had issued the certificate.

30. Thereby, it is held that this is not a case where the certificate has been issued by a Medical Board. Moreover, this is also not a case where the permanent disability was assessed to be of a higher degree. The permanent disability was opined to be at 10%. Thus, this Court does not agree with the decision of the learned Tribunal that the petitioner deserves Rs. 2,00,000/- (Rupees two lacs) towards disability which may lead to take earlier retirement and loss of promotion opportunities. At best this can be considered to be a case of grievous injury and the amount of Rs. 2,00,000/- (Rupees two lacs) may be scaled down to Rs. 20,000/- (Rupees twenty thousand). Assuming the claimant was suffering from 10% permanent disability, it can be safely held that the claimant has not suffered any loss of income owing to 10% permanent disability of her right limb.

31. The medical expenses as calculated by the learned Tribunal is not interfered with. The loss of income @ of Rs. 75,000/- (Rupees seven five thousand) as calculated by the learned tribunal is deleted. The loss of amenities is also deleted. It would apt to reiterate that although at the appellant stage, it has been held that there is complete lack of jurisdiction of this case yet in the light of the decision of the Hon'ble Supreme Court in ***Malati Sardar's case (supra)*** the judgment and award of the learned MACT Mokokchung impugned by the appellant is not set aside but is slightly modified.

32. It has been held in the foregoing discussions that the claimant/respondent No. 1 met with an accident and she has suffered grievous injuries on account of the accident. Thus, the appellant's prayer for setting aside the impugned judgment and award cannot be

accepted as there appears to be no failure of substantial justice.

33. I record my concurrence to the decision of the learned Tribunal that the vehicle was duly insured by the appellant's company. The rider of the vehicle was holding a valid license and the insurance policy with coverage of 3rd party risk was also valid at the time of the accident.

33. In view of my foregoing discussions, it is held that the appeal is partly allowed and the claimant is entitled to a total compensation calculated herein below under the following heads.

HEADS	CALCULATION
1) pain & sufferings, grievous injuries	Rs 20,000/-
2) Medical expenses including medical bills, hospital charges and conveyance	Rs 3,00,000/-
3) Attendant charges	Rs 25,000/-
4) Food and nourishment	Rs 25,000/-
TOTAL	Rs 3,70,000/-

34. The insurer/appellant i.e., the Oriental Insurance Company Ltd. is hereby directed to pay the compensation with 6% interest from the date of filing of the petition.

35. Send back the Trial Court Records.

JUDGE

Comparing Assistant