

**THE HIGH COURT OF TRIPURA**  
**AGARTALA**

**MAC APP. NO.24 OF 2008**

Smt. Ashoka Sarkar (Bhowmik),  
W/O. Sri Probodh Bhowmik,  
Resident of Vill-Khamarhati,  
P.O. Madhupur, P.S. Bishalgarh,  
West Tripura District.

**..... Awardee-Appellant.**

**- V e r s u s -**

1. Sri Narayan Debnath,  
S/O. Sri Dharani Kanta Debnath,  
Resident of Vill.- Jatanbari,  
P.O. Jatanbari, P.S. Nutanbazar,  
Amarpur, South Tripura.  
(Owner of canter Truck No.TR-03-1758).
2. The Divisional Manager,  
Oriental Insurance Company Ltd.,  
Central Road, Agartala,  
West Tripura.  
(Insurer of canter truck No.TR-03-1758).

**..... Respondents.**

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

For the appellant	: Mr. N. Majumder, Advocate, Mr. P.S. Roy, Advocate.
For the respondent No.2	: Mr. K. Bhattacharjee, Advocate.
Date of hearing	: 07.07.2014.
Date of judgment	: 31.07.2014.
Whether fit for reporting	: <b>NO.</b>

**JUDGMENT & ORDER**

This appeal for enhancement of compensation has been filed by the claimant against the award dated 12-12-2007 passed by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in case No. T.S.(MAC) 313 of 2005 whereby he awarded a sum of Rs.1,50,000/- to the claimant along with interest.

2. The only issue is what is the compensation to which the claimant is entitled to. It is not disputed that the claimant suffered injuries in an accident with truck bearing No.TR-03-1758. The claimant is a Government servant and the learned Tribunal without giving any reasons has awarded Rs.1,45,000/- for costs of treatment, transportation charges, loss of earned leave, medical leave etc. and Rs.5,000/- for pain and suffering, i.e. a total sum of Rs.1,50,000/-.

3. The claimant has placed on record large number of documents and I now proceed to assess the compensation in view of the documents produced.

4. It is well settled law that in a case of injuries compensation is awarded under two heads; pecuniary damages and non-pecuniary damages. Under the head of pecuniary damages, the expenses of treatment, attendants, special diet, transportation, hospitalization will be covered. Under the head of pecuniary losses, the claimant will also be entitled to the amount of income which he has actually lost due to his being unable to attend his work and in case, the injury has caused a permanent disability,

then the future loss of income shall also have to be considered. Under the head of non-pecuniary damages, normally damages will be awarded under the head of pain and suffering and in cases of permanent disability also for loss of amenities of life and future discomfort in life. In cases where the claimant is a young unmarried person and the injuries affect his marital prospects, damages for loss of marital prospects can also be awarded.

5. It is not disputed that at the relevant time, the claimant was working as M.P. Worker in the Public Health Centre and his total salary was Rs.6,780/- per month and after deductions he was getting Rs.5,630/- per month. The accident took place on 23-02-2005 and thereafter, the claimant was shifted to G.B. Hospital where he remained admitted up to 25-02-2005. Then he was taken to Kolkata. He was referred to the S.S.K.M. Hospital but since there was no place in the hospital, he went to a private hospital known as Lansdowne Nursing Home where he remained admitted from 02-03-2005 to 14-03-2005. The persons accompanied him stayed in the Tripura Bhavan. The claimant along with his attendants returned from Kolkata on 17-03-2005. The claimant claims that he has spent more than Rs.3,00,000/- on his treatment. It is also stated that the claimant remained on leave for a period of 114 days and certificate in this regard has been produced which shows that he was on Commuted Leave for 70 days from 23-02-2005 to 03-05-2005 and Earned Leave for 44 days from 04-05-2005 to 16-06-2005 on medical ground. The claimant has placed on record the air tickets for himself and his

attendants. The claimant went as a stretcher case and Rs.10,880/- was charged whereas in respect of the other attendants the charges are Rs.2,720/-. Therefore, the total expenditure of travel by air is Rs.24,480/-. The claimant must have spent some amount on taxis etc. and, therefore, he is awarded Rs.30,000/- for transportation charges.

6. The claimant was attended upon for about 24 days in the year 2005. The cost of each attendant is taken at Rs.400/- per head since the claimant had to rent for boarding and lodging at Kolkata and the cost of two attendants for these 24 days works out to Rs.19,200/- which is rounded off to Rs.20,000/-.

7. The claimant has placed on record a number of vouchers with regard to his treatment and the total amount as per the vouchers works out to Rs.50,580/-. At this stage, it would be pertinent to mention that some of the receipts/documents filed by the claimant have not been taken into consideration because they are duplicated in the final bills of the Lansdowne Nursing Home. The claimant has placed receipts of the advance payment made and has also placed on record the final bill. Obviously, the advance payment has to be deducted from the final bill and, therefore, only the final bills have been taken into consideration. However, in addition to this amount of Rs.50,580/-, the claimant may have spent some other amount on his treatment and taking a holistic view of the matter, Rs.60,000/- is awarded for medical expenses.

8. Coming to the issue of loss of salary, the claimant did not attend duty for a total of 114 days, i.e. about four months. The salary was Rs.6,780/- and, therefore, he is awarded Rs.28,000/- for loss of income.

9. The claimant remained under treatment for a long time and keeping in view the nature of the treatment, he is awarded Rs.30,000/- for pain and suffering.

10. There is no proof of permanent disability and the claimant continues in Government job and, therefore, there is no loss of future income or loss of amenities of life.

11. Therefore, the total compensation is assessed at Rs.(30,000 + 20,000 + 60,000 + 28,000 + 30,000)=Rs.1,68,000/- and the award is enhanced from Rs.1,50,000/- to Rs.1,68,000/-.

12. In view of the above discussion, the appeal is allowed. The award of the learned Tribunal is modified and the compensation is enhanced from Rs.1,50,000/- to Rs.1,68,000/-, i.e. by Rs.18,000/-. On the amount of compensation so awarded, the claimant shall also be entitled to interest @ 9% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount. The Insurance Company has not challenged the award and, therefore, it is directed to deposit the entire awarded amount of compensation along with interest in the Registry of this Court within four months from today after deducting/adjusting the amount, if any, already paid/deposited by them along with proof of such earlier deposit.

13. The appeal is accordingly disposed of in the aforesaid terms.

14. Send down the lower court records forthwith.

**CHIEF JUSTICE**