

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MAC APP. NO.96 of 2008

Sri Rabindra Rupini,
S/o Padma Charan Rupini,
of Baishya Charan Para, Belbari,
P.S. Jirania, Dist. West Tripura.

..... *Appellant.*

- Vs -

- 1. Manu Debbarma,**
S/o Jyoti Mohan Debbarma,
of Kalyan Thakur Para,
P.O. Birendranagar, P.S. Jirania,
Dist. West Tripura,
(Owner of vehicle bearing No.TR-01-3403, Commander Jeep).
- 2. The National Insurance Company Ltd.,**
Represented by its Branch Manager,
Having its Divisional Official at 42 - Akhaura Road,
P.S. West Agartala, Dist. Tripura West,
Pin - 799001.

..... *Respondents.*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. S B Debnath, Advocate.

For the respondents : Mr. K Bhattachaerji, Advocate.

Date of hearing and
delivery of judgment : 31.7.2014

Whether fit for reporting : No.

JUDGMENT & ORDER(ORAL)

This appeal by the claimant has been filed for enhancement of compensation.

2. Since the only issue is whether the claimant is entitled to enhanced compensation, it is not necessary to give the other facts of the case. In the accident in question the claimant suffered multiple injuries and was immediately after the accident admitted in the Khumulwng Hospital, on 07.02.2004 and was discharged therefrom on 16.02.2004. Thereafter he was again admitted in the G. B. P Hospital, Agartala on 20.02.2004 and discharged therefrom on 27.02.2004. Therefore, he was in hospital for 18 days. It is on record that he remained under treatment for almost 46 days. The learned Tribunal has awarded total compensation of Rs.17,000/- out of which Rs.12,000/- is for cost of treatment, transportation etc. and Rs.5,000/- for pain and suffering.

3. The principles with regard to determination of just compensation contemplated under the Motor Vehicles Act, 1988 are well settled. Injuries cause deprivation to the body which entitles the claimant to claim damages. The damages may vary according to the gravity of the injuries sustained by the claimant in an accident. On account of the injuries, the claimant may suffer consequential losses such as, (i) loss of earning; (ii) expenses on treatment which

may include medical expenses, transportation, special diet, attendant charges etc., (iii) loss or diminution to the pleasures of life by loss of a particular part of the body, and (iv) loss of future earning capacity. The damages can be pecuniary as well as non-pecuniary, but all have to be assessed in rupees and paisa.

4. Now I proceed to assess the compensation in accordance with the aforesaid well settled principles of grant of compensation. The claimant remained in hospital for 18 days. During this period he would have been required to be attended upon by at least 2(two) attendants round the clock. If the cost of one attendant is even taken at Rs.250/- per day, the cost of two attendants comes to Rs.500/- and for 18 days the cost of attendants alone works out to Rs.9,000/-.

5. The claimant was initially taken to the hospital at Khumulwng then brought to Agartala and then had to be taken back to his native village. Therefore, the claimant must have spent some amount in excess. Though there is no exact proof of what he spent I feel that keeping in view all the facts and circumstances of the case a sum of Rs.3,000/- may be awarded for transportation charges.

6. Coming to the medical expenses, the claimant has placed on record cash memos for a sum of Rs.3,534/-. It is well-known fact that initially the injured person or his relatives may not

keep all the cash memos and therefore, keeping in view the nature of injuries etc. the claimant is awarded Rs.6,000/- on account of medical expenses.

7. The claimant remained on leave for 46 days. The claimant was getting a salary of Rs.5,053/- per month and therefore, for one and half months loss of leave he should have been awarded Rs.7,500/- which has not been awarded. He is therefore awarded Rs.7,500/-.

8. As far as pain and suffering is concerned, the award of Rs.5,000/- is very much on the lower side. The claimant is held entitled to Rs.12,500/- for pain and suffering. Therefore, the total compensation works out to (Rs.9,000 + 3,000 + 6,000 + 7,500 + 12,500/-) = Rs.38,000/-.

9. In view of the above discussion, the appeal is allowed and the award, dated 19th October 2008, passed by the learned Motor Accident Claims Tribunal, West Tripura, in Case No.TS(MAC)89 of 2005, is modified. The compensation is enhanced from Rs.17,000/- to **Rs.38,000/-**. The claimant shall also be held entitled interest @ 9% per annum on the enhanced amount from the date of filing of the claim petition till payment/deposit of the amount. The insurance company is directed to deposit the awarded amount of compensation after adjusting/deducting the amount which may

have already paid, in the Registry of this Court within 4(four) months from today.

10. The appeal is disposed of in the aforesaid terms. Send down the LCRs forthwith.

CHIEF JUSTICE

Sukhendu