

THE HIGH COURT OF TRIPURA
AGARTALA

MAC APP. NO.34 OF 2010

1. Sri Jiban Kumar Das,
S/O. Late Kamani Das,
Resident of Town Indranagar,
(Hathat Colony), P.O.-Abhoynagar,
P.S. East Agartala, District-West Tripura.
2. Smti. Shakti Rani Das,
W/O. Sri Jiban Kumar Das,
Resident of Town Indranagar,
(Hathat Colony), P.O.-Abhoynagar,
P.S. East Agartala, District-West Tripura.

..... **Appellants.**

- V e r s u s -

1. Sri Pijush Kanti Roy,
S/O. Mohan Lal Roy, C/O. Anil Saha,
Resident of Arishya Colony,
P.S.-Airport, Dist. West Tripura,
(Owner of the vehicle No.TR-01-2731,
Commander Jeep).
2. The National Insurance Company Ltd.,
Divisional Office-42, Akhaura Road,
Agartala, West Tripura.
Represented by its Divisional Manager,
(Insurer of the vehicle No.TR-01-2731,
Commander Jeep).
3. Sri Ashit Das,
S/O. Sri Jiban Kumar Das,
Resident of Town Indranagar,
(Hathat Colony), P.O.-Abhoynagar,
P.S. East Agartala, District-West Tripura.
(Owner of the vehicle No.TR-01-F-8676,
Motor Cycle).
4. The Oriental Insurance Company Ltd.,
Divisional Office-42, Central Road,
Agartala, West Tripura.
Represented by its Divisional Manager,
(Insurer of the vehicle No.TR-01-F-8676,
Motor Cycle).

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellants : Mr. P. Roy Barman, Advocate.

For the respondent No.2 : Mr. P. Gautam, Advocate.

For the respondent No.4 : Mr. K. Bhattacharji, Advocate.

Date of hearing and : 30.01.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This appeal by the claimants for enhancement of compensation is directed against the award dated 05-04-2010 passed by the learned Motor Accident Claims Tribunal, Court No.4, West Tripura, Agartala in case No. T.S.(MAC) 158 of 2007 whereby the learned Tribunal awarded a sum of Rs.1,70,000/- only in favour of the claimants.

2. The admitted facts are that the deceased Amit Das was a student of B.A. 2nd year. It was claimed that he was earning Rs.7,000/- per month by selling dry fish at Lake Chowmuhani bazaar. The claimants are his parents. The claimants rely upon a certificate alleged to have been issued by the Secretary, Lake Chowmuhani bazaar in which it is stated that the deceased was earning Rs.7,000/- per month. The learned Motor Accident Claims Tribunal rightly held that no reliance could be placed on this certificate because the Secretary of the bazaar has no authority or right to issue such certificate. Furthermore, the Secretary has not appeared in the witness box and, therefore, the certificate has not been proved in accordance with law. Having held so, in my opinion, the learned Tribunal gravely erred in assessing the income of the deceased at Rs.15,000/- per annum and thereafter, applied

multiplier of 11 by taking into consideration the age of the parents and assessed the compensation.

3. As far as this Court is concerned, this Court has been following two methods while assessing compensation when the deceased is a bachelor and the claimants are parents. Either 50% deduction is made for the personal expenses of the deceased in which case the multiplier is applied by taking into consideration the age of the deceased. The other method is that only 1/3rd is deducted for the personal expenses of the deceased in which event the multiplier is applied by taking into consideration the age of the parents. Whatever method is applied the compensation works out approximately to be the same.

4. In this case, the first issue to be decided is what was the income of the deceased. The Secretary of the Lake Chouwmuhani Bazaar Committee had no means of assessing the income of the deceased by selling dry fish in the Lake Chowmuhan bazaar. However, this Court cannot lose sight of the fact that Amit Das was actually a student and was studying. He could not have been earning on a whole time basis by selling dry fish in market. Therefore, this income can never be treated to be a permanent income.

5. Having held so, the fact remains that Amit Das was studying in college. Once he had graduated out of college, he would have earned a suitable amount of money and he may have earned even much more than Rs.15,000/- per annum as assessed

by the learned Tribunal. Keeping into consideration the age of the deceased, the fact that he was a student of college and the fact that he may after college have earned a higher amount, keeping in view the future prospects I assess the income at Rs.4,500/- per month. 50% is deducted for his personal expenses. Therefore, the dependency of the parents works out to Rs.2,250/- per month or Rs.27,000/- per year. The deceased was aged 22 years and as per the judgment laid down in ***Sarla Verma's*** case, the appropriate multiplier would be 18 and the compensation works out to **Rs.4,86,000/-**.

6. In addition thereto, the mother is held entitled to **Rs.50,000/-** for loss of love and affection and the claimants are also entitled to **Rs.10,000/-** for funeral expenses and conventional damages. Thus, the total compensation works out to **Rs.5,46,000/-**.

7. 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.1,70,000/- to Rs.5,46,000/-, i.e. by Rs.3,76,000/-. On the amount of compensation so awarded, the claimants shall also be entitled to interest @ 7.5% per annum from the date of filing of the claim petition till payment/deposit of the awarded amount.

8. In this accident, two vehicles were involved and they were insured with the National Insurance Company Limited and the Oriental Insurance Company Limited respectively. Both the

insurance companies have been equally held liable to pay the compensation. The Insurance Companies have satisfied the award of the Tribunal and, therefore, they are directed to deposit the enhanced 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.

9. The learned Tribunal awarded amount of compensation to the claimants in equal shares. This amount has also been released in favour of both the claimants. I am however, of the view that the apportionment made by the learned Tribunal of awarding the amount equally to the parents is absolutely wrong. It is only the mother, who is a Class-I heir of a male Hindu who dies intestate. The father is not a Class-I heir. He may be awarded some amount but the major amount has to be awarded to the mother. Therefore, the award of the father is limited to the amount which he has already received and he will not get any amount out of the enhanced amount.

10. The appeal is disposed of in the aforesaid terms.

11. Send down the lower court records forthwith.

CHIEF JUSTICE