

**HIGH COURT OF TRIPURA
AGARTALA**

CRP 17 of 2018

Sri Bidhu Bhusan Das,
S/o Late Birendra Das, of village-South Nayapara, P.O. &
P.S. Dharmanagar, District-North Tripura

----Petitioner(s)

Versus

1. Sri Radheshyam Goswami,
S/o Late Debendra Mohan Goswami,

2. Sri Debasis Goswami,
S/o SriRadheshyam Goswami,

Both are residents of North Charilam,
P.O. & P.S. Bishalgarh, District-Sepahijala, Tripura.

3. Branch Manager,
Oriental Insurance Company Ltd., Kaman Chowmuhani,
Central Road, P.O. Agartala, P.S. West Agartala, District-
West Tripura.

----Respondent(s)

For Petitioner(s) : Mr. Ratan Datta, Adv.

For Respondent(s) : Mr. DC Roy, Adv.
Mr. P Gautam, Adv.

Whether fit for reporting : **NO**

HON'BLE MR. JUSTICE S. TALAPATRA

Judgment & Order (Oral)

27/04/2018

Heard Mr. Ratan Datta, learned counsel appearing for the petitioner as well as Mr. DC Roy, learned counsel appearing for the respondents No.1&2 and Mr. P Gautam, learned counsel appearing for the respondent No.3, Oriental Insurance Company Limited.

2. This is a petition filed under Article 227 of the Constitution of India for setting aside the order dated 21.11.2017 passed by the Motor Accident Claims Tribunal,

Tribunal No.2, West Tripura, Agartala in Civil Misc (Rev) 01/2016. By the said order dated 21.11.2017, the petition for review of the judgment and order dated 10.11.2011 delivered in T.S.(MAC)430/2009 has been rejected by the tribunal. The petition for review was filed on the ground that despite due report in writing that the owner of the offending vehicle bearing registration No. AS-01-BC-1484 (Truck) had expired, the said judgment and award dated 10.11.2011 was passed against the dead-owner.

3. The successors of the deceased owner filed the said review petition being Civil Misc. (Rev)01/2016, but the Tribunal having relied on the decision of this Court in **Dulal Chandra Roy Vs Bibek Roy and Anr**, reported in **(2015) 2 TLR 837** has dismissed the review petition holding that the Motor Accident Claims Tribunal does not have the jurisdiction to review even its own judgment. Being aggrieved by that order, this petition has been filed.

4. While scrutinizing the judgment and award dated 10.11.2011, this Court finds the following observation recorded by the Tribunal:

".....Since there is a dispute in respect of correctness of the date of the policy for which this Tribunal has directed the opposite party owner to produce the original policy of insurance and in reply it is submitted in writing on behalf of the opposite party owner that the opposite party owner died and so they are unable to produce the original insurance policy....."

5. It appears that there had been no substitution for death of the owner, the opposite party No.1 in

T.S.(MAC)430/2009. Without substitution, by the said judgment award dated 10.11.2011, the Tribunal has directed as follows:

".....The opposite party No.1 Ms. Dipti Das being the owner of AS01-BC-1484 (Truck) is hereby directed to pay the said amount of compensation together with interest as stated above to the injured petitioner Shri Debasis Goswami within a period of 30 (thirty) days from the date of judgment....."

6. On the face of it, the said direction is palpably illegal and cannot be sustained and accordingly, the said judgment and award dated 10.11.2012 is set aside. However, considering the facts and circumstances, the case being T.S.(MAC)430/2009 is remanded to the Motor Accident claims Tribunal, Court No.3, West Tripura, Agartala for recommencing the inquiry for determining the award on the claim of the respondents No.1&2 herein.

7. The successors of the opposite party No.1, namely, Ms Dipti Das, who had been reported dead, shall furnish a list of the successors of Ms Dipti Das or the testamentary successors in the Tribunal by the next date and the claimant-petitioners are given liberty to make appropriate application for substitution of the opposite party No.1 in terms of the said list. If the list is not provided in the Tribunal and non-furnishing is brought to the notice of this Court, it is made clear that a contempt proceeding will be drawn up against the petitioners herein.

8. It is made further clear that after substitution the legal heirs of opposite party No.1 will be given liberty to file their written objection, if any, along with the documents. They

will also be allowed to cross-examine the witnesses, if required on recall of the witness/s.

9. The Tribunal shall try to bring the proceeding to its logical end as expeditiously as possible but by any rate not beyond six months from the next date which is fixed by this Court.

10. The parties herein are directed to appear before the Tribunal on 15.06.2018. No fresh notice would be issued on the parties by the Tribunal.

Having observed thus, this petition stands allowed to the extent as indicated above.

JUDGE



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