

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App No. 75/2018

1. Smti Kalpana Nama(Das), W/o. Late Haradhan Das.
2. Master Subha Das, S/o. Late Haradhan Das.
3. Master Sourav Das, S/o. Late Haradhan Das.
4. Smti Suprava Rani Das, W/o. Late Nitai Das.

All are residents of Gandhigram, P.O-Gandhigram, P.S-Airport, District-West Tripura.

----- Appellants(Claimant petitioners).

Versus

Sri Sefal Mallik, S/o. Late Santosh Mallik, R/o. Patunagar, near shop of Simul Saha, P.S-Airport, District-West Tripura. (Owner of the offending vehicle No. TR-01-S-8019, Motor Bike.

-----Respondent-Opposite Party.

For Appellant(s)	:	Mr. S. Bhattacharjee, Advocate.
For Respondent(s)	:	Mr. S. Kar Bhowmik, Advocate. Mr. S. Datta, Advocate. Mr. Anirban Bhattacharjee, Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

ORDER

29/11/2019

This appeal is filed by original claimants who are widow, minor children and aged mother of deceased Haradhan Das who died in a vehicular accident which took place in a night hours on 03.04.2016. The claim petition was dismissed by the claims tribunal on the ground that the identity of the vehicle involved in the accident was not established.

Brief facts are as under:

On 03.04.2016 at about 9.30 at night deceased Haradhan Das was travelling on his bicycle in the city of Agartala going to his work place where he worked as a night guard. He was knocked down by a speeding vehicle causing fatal injuries. It was a hit and run case. The

people from the nearby area rushed to the spot and shifted him to the hospital where he was declared dead. His brother-in-law i.e. wife's brother filed an FIR before the nearby police station on the same night stating that his brother-in-law was knocked down by a unidentified vehicle/bike which had dashed against the bicycle of the deceased.

The claimants filed a claim petition before the Motor Accident Claims Tribunal, West Tripura, Agartala seeking compensation of ₹39,20,000/- from the owner and insurer of a motorcycle. They had put up a case that when the deceased was travelling on his bicycle he was first hit by a speeding Alto Maruti car due to which he fell down on the road and was hit this time fatally by a motorcycle being driven at a high speed in rash and negligent manner.

Before the claims tribunal the widow was examined in Court. She obviously did not have any personal information about the incident. The claimants had additionally examined one Ranjit Debnath as PW-2. In his examination-in-chief he deposed that on the date of the accident while he was returning home from market he had seen the accident during which the deceased was first hit by speeding Maruti vehicle and thereafter after he slipped, by a motorcycle bearing registration No. TR-01-S-8019. He claimed that he was one of the persons alongwith other local people present who shifted the deceased to GBP Hospital, Agartala. In his cross-examination he falsely claimed that his statement was recorded by the police in connection with the FIR of the incident. He denied that he was a planted witness and was making a false declaration only to support the claimants.

The Investigating Officer had presented a detail report before the concerned Magistrate upon completion of the investigation in connection with the FIR lodged by the brother-in-law of the deceased.

In his report he had stated that he had recorded statements of several persons of the locality where the accident had taken place. He had also collected a few spare parts of a damaged car possibly, Maruti Alto. He tried to trace out such car involved in the accident but had failed. In his opinion the accident was caused by a four wheeler most probably by a Maruti Alto car but then he could not find the vehicle involved in the accident.

Interestingly the respondent No.1, the owner - driver of the motorcycle also entered into the witness box and admitted the accident and also admitted that the same was caused by him after the Maruti Alto had knocked down the bicyclist.

On the basis of such materials on record, the claims tribunal, in my opinion correctly, held that the case of the claimants of involvement of the motorcycle in the accident was false. As noted, the accident took place at night hours where identification of the registration numbers of speeding vehicles by a stranger would be quite difficult. Going by the case of the claimants and their witnesses, it was a case of hit and run accident. Both the vehicles allegedly involved in the accident had fled away after the event. The claim of PW-2 of having witnessed the accident and also having noted down the registration number of the speeding motorcycle thus becomes extremely doubtful. He was chance witness. Further, despite best efforts by the Investigating Officer no other witness which would naturally include several persons who are permanently stationed at the site had given any account of involvement of a motorcycle in the accident. Yet another important aspect of the matter is that PW-2 had never reported before the police that he was an eye witness and that he had noted down the registration number of the motorcycle. The fact that the opponent No. 1 owner and driver of the motorcycle not only

entered the witness box, but also admitted the involvement of his vehicle and himself in the accident is also a strange phenomenon. Neither the so called eye witness PW-2 nor the Opponent No.1 owner-driver of the motorcycle had ever declared the respective versions before the police or anywhere else.

The tribunal thus correctly refused to accept such evidence of involvement of the motorcycle. By all account it appears to be a case where the deceased met with an unfortunate death when he was knocked down by a speeding car which fled away from the scene of accident.

In the result, appeal is dismissed.

(AKIL KURESHI),CJ.

Dipankar

