

**HIGH COURT OF TRIPURA
AGARTALA
MAC APP NO.36 OF 2021**

Shri Biswanath Sarkar,
S/o Nirmal Kr. Sarkar,
Resident of-Karipukur, Amtali,
P.S.-Amtali, District-West Tripura.
(Owner of TR-01-B-4280- Cruiser Jeep)

..... **Opposite Party Appellant(s)**
Vs.

1. Shri Buddhiram Debbarma,
S/o. Sri Kanu Ch. Debbarma,
Resident of-Vibekananda Pally, Bishramganj,
P.S.- Bishramganj, District- Sepahijala Tripura.

On behalf of minor son namely-

Shri Hopreng Debbarma
S/o. Shri Buddiram Debbarma,
Resident of- Vibekananda Pally,
Bishramganj, P.S.- Bishramganj,
District- Sepahijala Tripura.

.....**Claimant Respondent(s).**

2. The Branch Manager,
Bajaj Allianz General Insurance Company Limited,
2B, 2nd Floor, NH Centre Point, OPP. Bora Service Station,
G.S. Road, Ulubari, Guwahati, Assam, Pin-781 007.
(Insurer of TR-01-B-4280-Cruiser Jeep).

..... **Opposite party Respondent(s).**

For the Appellant(s) : Mr. A. Acharjee, Advocate.

For the Respondent(s) : Mr. K. De, Advocate.
Mr. S. Das, Advocate.

Date of hearing and delivery of
Judgment & Order : 30.11.2022.

Whether fit for reporting : NO.

HON'BLE THE CHIEF JUSTICE(ACTING)

JUDGMENT AND ORDER(ORAL)

This instant appeal has been filed under Section 173(1) of the Motor Vehicle Act, 1988 against the impugned Judgment and award dated 25.08.2017 passed by the learned Motor Accident Claims Tribunal No.1, West Tripura, Agartala in case No.T.S.(MAC)247/2014 whereby the learned Tribunal below fixed the liability upon the opposite-party-appellant to pay compensation of Rs.55,000/-(Rupees fifty-five thousand) only with 6% interest per annum from the date of presentation of suit i.e.02.08.2014.

2. The fact of the case, in brief, is that on 09.04.2012 Hopreng Debbarma was returning home on foot from Don Bosco School and when he reached in front of the shop of one Sajal at about 03-45 p.m., the offending vehicle bearing No.TR-01-B-4280 coming at a high speed from the side of Bishramganj dashed Hopreng Debbarma causing injuries on his person. Hopreng Debbarma was immediately taken to Bishramganj Hospital but he was referred to Tripura Medical College & Dr. B.R. Ambedkar Memorial Teaching Hospital, Hapania, Agartala wherein he was treated as an indoor and outdoor patient. As the said Hopreng Debbarma was minor at that time and he sustained

injuries, his father Buddhiram Debbarma filed a petition claiming compensation of Rs.10,20,000/- before the learned Motor Accident Claims Tribunal No.1, West Tripura Agartala.

3. The opposite-party-appellant(here-in-after referred to as the appellant) did not contest the case for which an order was passed on 28.06.2016 for hearing the case exparte against Shri Biswanath Sarkar, owner of the alleged offending vehicle, and the appellant herein. Respondent No.2, the Insurance Company contested the suit by filing a written objection. The Insurance Company denied the accident and also specifically stated in Para-17 of the written objection that the Insurance Company i.e. Bajaj Allianz General Insurance Company Limited was not the insurer of the vehicle TR-01-B-4280 on the relevant date of the accident.

4. The learned Tribunal after hearing both the parties fixed the liability on the appellant herein to pay the compensation of Rs.55,000/- with 6% interest per annum within a period of 6(six) weeks from the date of judgment to the date of presentation of the suit.

5. Being aggrieved and dissatisfied with the impugned judgment and award dated 25.08.2017 passed by the learned Motor Accident Claims Tribunal No.1, West Tripura, Agartala in

T.S. (MAC) 247 of 2014, the appellant has preferred this instant appeal.

6. Mr. A. Acherjee, learned counsel appearing for the appellant herein submits that the appellant has all the relevant valid documents of the said vehicle as well as the driving license of the driver. At the relevant point of time, the said vehicle was insured with Bajaj Allianz General Insurance Company vide Insurance Policy No. OG-12-9995-1812-00002018 and the said insurance policy covered the accidental benefit at the time of the accident. But the appointed lawyer failed to produce the same before the Tribunal and the case proceeded ex parte against the appellant herein. Stating thus, learned counsel urged to free the appellant from any liability of making the payment of the awarded compensation and fix the same on the respondent-Insurance Company.

7. Mr. K. De, learned counsel appearing for the respondent-Insurance company submitted that despite giving ample opportunity to the appellant herein to file the valid insurance policy before the learned Tribunal, he failed to produce the same. Now after a long period of time, the appellant suddenly came before this Court with this application which is not maintainable in the eye of the law. Stating thus, learned counsel prayed to dismiss this instant appeal.

8. Heard both sides and perused the evidence on record.

9. Before the learned Tribunal, the appellant herein was declared exparte vide order dated 28.06.2016 but the appellant choose to remain silent and did not file any appropriate application before the learned Tribunal. The appellant maintained total silence on filing the relevant insurance policy document before the learned Tribunal. Now only after a lapse of so many years, he choose to file a case before this Court against the impugned judgment and award. The learned Tribunal gave sufficient time to the appellant for producing the relevant documents but the appellant did not produce the same.

10. Even if it is assumed that the appellant herein has the relevant documents with him all along, but, he committed gross negligence and laches in filing the same. He kept silent all along and he choose to file this petition after a lapse of so many years. In view of the same, this Court is of the opinion that the present appeal is not maintainable and the same is dismissed.

11. Consequently, pending application if any, also stands closed.

CHIEF JUSTICE(ACTING)