

**HIGH COURT OF TRIPURA  
AGARTALA  
MAC App. No.08 of 2024**

**Magma HDI,**  
General Insurance Company Ltd.  
Represented by its General Manager,  
Magma House, 24 Park Street, Kolkata-700016,  
West Bengal. Local office at Netaji Chowmuhani,  
Within the building of HDFC Bank,  
P.O. Agartala, P.S. West Agartala,  
District: West Tripura, PIN: 799001.  
  
(Insurer of Truck bearing No.TR-03-B-1805)

----Appellant(s)

Versus

**1. Smti. Susmita Barman (Kar),**  
W/o Late Shyamal Kar.  
  
Residents of Badurtali Lane,  
Krishnanagar, P.O. Agartala, PIN: 799001,  
P.S. West Agartala, District: West Tripura.

----Claimant Respondent(s)

**2. Smti. Sajeda Begam,**  
W/o Michil Miah,  
  
Resident of Srimantapur, Shobhapur,  
P.S. Sonamura, P.O. Sonamura,  
District: Sepahijala, Tripura,  
PIN: 799181.  
  
(Owner of Truck bearing No.TR-03-B-1805)

----Owner Respondent(s)

For Appellant(s)	:	Mr. Rajib Saha, Adv.
For Respondent(s)	:	Mr. Kishor Kumar Pal, Adv.
Date of hearing and delivery of Judgment & Order	:	30.08.2025
Whether fit for reporting	:	<b>NO</b>

**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order (Oral)**

This appeal under Section 173 of the Motor Vehicles Act, 1988 is preferred challenging the judgment and award dated 12.10.2023 delivered by Learned Member, Motor Accident Claims Tribunal No.1, West Tripura, Agartala in connection with case

No.T.S. (MAC) 315 of 2022. By the said judgment and award, Learned Tribunal has awarded compensation amounting to Rs.1,87,050/- in favour of the respondent-claimant petitioner with interest at the rate of 9% per annum from the date of filing of the claim petition before the Learned Tribunal i.e. w.e.f. 18.11.2022 to till the date of realization.

**2.** Heard Learned Counsel, Mr. Rajib Saha appearing on behalf of the appellant-Insurance Company. Also heard Learned Counsel, Mr. Kishore Kumar Pal appearing on behalf of the respondent-claimant petitioner. None appeared on behalf of the owner of the offending Truck bearing No.TR-03-B-1805.

**3.** At the time of hearing, Learned Counsel for the appellant-Insurance Company submitted that admittedly in this case the Learned Tribunal below awarded minimum amount of compensation in favour of the respondent-claimant petitioner. But, the Learned Tribunal below at the time of delivery of judgment and award, imposed rate of interest @9% which appears to be in higher side because according to Learned Counsel for the appellant-Insurance Company in most of the cases this Court has awarded interest @7.5% per annum. So, considering the nature of the claim petition, Learned Counsel for the appellant-Insurance Company urged for allowing this appeal modifying the award in respect of rate of interest.

**4.** On the other hand, Learned Counsel for the respondent-claimant petitioner submitted that in this case, on the same day due to accident, the husband of the respondent-claimant petitioner expired and the respondent-claimant petitioner also sustained injuries and she had to undergo treatment for a prolong period of time. However, Learned Tribunal after considering the

oral/documentary evidence on record rightly and reasonably delivered the judgment and award along with 9% interest per annum. It was further submitted by Learned Counsel for the respondent-claimant petitioner that even the Hon'ble Supreme Court of India in many of the cases granted rate of interest @9% per annum. So, Learned Counsel submitted that in this case, Learned Tribunal below rightly awarded rate of interest @9% and as such, there is no scope for interference of this judgment and award by this Court and finally urged for dismissal of this appeal filed by the appellant-Insurance Company.

**5.** In the case at hand, the respondent-claimant petitioner filed one claim petition before the Learned Tribunal below alleging *inter alia* that on 06.09.2022 at about 11:45 a.m., the respondent-claimant petitioner along with her husband Shyamal Kar (since dead) were coming from Chottakhala under South Tripura District towards Agartala via Udaipur by boarding the vehicle bearing No.TR-01-H-0405 (Maruti Zen) and when the vehicle reached at Patichari near Atkabazar under Santirbazar Police Station that time one Truck bearing No.TR-03-B-1805 came from the opposite direction with high speed and in a rash and negligent manner suddenly going to the wrong side of the road, dashed against the right frontal portion of the vehicle bearing No.TR-01-H-0405 (Maruti Zen) in which the respondent-claimant petitioner and her husband boarded and due to sudden dashing the right frontal portion of the Maruti Zen was totally damaged and as a result of which the respondent-claimant petitioner sustained severe injuries on her head, chest, waist and different parts of the body and her husband also received fatal injuries on his person. Immediately after the accident, the fire

service vehicle reached to the place of occurrence and rescued both of them and shifted them to Santirbazar Hospital. The attending doctor of Santirbazar Hospital treated the respondent-claimant petitioner and her husband and as the condition of the husband of the claimant petitioner was critical so both of them were referred to the AGMC & GBP Hospital, Agartala when the attending doctor declared her husband as dead. However, the respondent-claimant petitioner was thereafter was taken to the ILS Hospital, Agartala for better treatment. It was further submitted that the accident occurred due to rash and negligent driving of the driver of the Truck bearing No.TR-03-B-1805 and in this regard Santirbazar Police Station case No.2022/STB/024 under Section 279/338/427/304(A) of IPC read with Section 184 of M.V. Act was registered. The respondent-claimant petitioner further took the plea that she is a Graduate Teacher under Education Department and earns monthly salary of Rs.70,500/-. It was further stated in the claim petition that she is still undergoing treatment and she was compelled to take discharge from the ILS Hospital for performing ritual ceremonies of her deceased husband and as such, she filed the claim petition.

The owner of the vehicle appeared and contested the claim by filing written objection and submitted that on the alleged day the vehicle was duly insured with the appellant-Insurance Company. The appellant-Insurance Company also denied the allegation of the respondent-claimant petitioner and further took the plea that the claim petition is subjected to strict proof by the claimant petitioner.

6. Upon the pleadings of the parties, Learned Tribunal below determined the following points for decision of the claim petition:

**“(1) Did petitioner Smti. Susmita Barman (Kar) sustain injuries in a road traffic accident occurred on 06.09.2022 at about 11.45 a.m. at Patichari near Athka Bazar on Agartala Sabroom Main Road under Santir Bazar Police Station out of use of vehicles bearing registration no. TR-01-H-0405 (Maruti Zen) and TR-03-B-1805 (Truck) due to rash and negligent driving by the driver of the Truck?**

**(2) Is the petitioner entitled to get compensation as prayed for and if so, to what amount and who is/are liable to pay the same?**

**(3) To what other relief the parties are entitled?”**

To substantiate the points, the respondent-claimant petitioner examined herself as PW-1 and she relied upon some documents which were marked as Exbt.1 to Exbt.6. The owner of the vehicle was examined as OPW-1 and she relied upon some documents which were marked as Exbt.A to Exbt.G. For the sake of convenience, the exhibits of the parties are mentioned hereinbelow:

**“Exbt 1 series: Mechanical Inspection Reports, FIR alongwith Ejahar, In lieu of seizure memos, Post Mortem Examination Report, Final Report.**

**Exbt 2 series: Final bill of ILS Hospital, Agartala.**

**Exbt 3 series: Service voucher, Patient settlement voucher, receipt of HDFC Bank.**

**Exbt 4: Salary Certificate.**

**Exbt 5:- Memo for commuted leave of Smt. Susmita Barman Kar.**

**Exbt 6: Cash Memo,**

**Exbt A: Policy Certificate,**

**Exbt B: Registration Certificate,**

**Exbt C: Driving Licence,**

**Exbt D: Penalty receipt given by State Transport Department Sepahijala DTO, Tripura,**

**Exbt E: Route permit of the vehicle,**

**Exbt F: Fitness Certificate,**

**Exbt G: Pollution Certificate.”**

7. Finally, on conclusion of the proceeding, Learned Tribunal below allowed the claim petition filed by the respondent-

claimant petitioner. The operative portion of the judgment and award of the Learned Tribunal below runs as follows:

**"O=R=D=E-R**

**It is, therefore, held that the claimant petitioner is entitled to get compensation of Rs.1,87,050/- (Rupees One Lakh Eighty seven Thousand Fifty only) with interest @ 9% per annum with effect from 18.11.2022 i.e. the date of filing of the claim petition till the date of actual payment as per Judgment of the Hon'ble Supreme Court of India passed on 17.10.2022 in CA No.7593 of 2022. The Opposite Party No.2 namely, MAGMA HDI General Insurance Company Ltd. will pay the amount of compensation with interest within 30 days from today in terms of Section 168(3) of M.V. Act, 1988.**

**Supply copy of this award free of cost to the parties.**

**The claim petition stands disposed of on contest.**

**Enter the result in the relevant Register as well as in the CIS."**

**8.** Challenging the said judgment and award the appellant-Insurance Company has preferred this present appeal.

**9.** I have heard both the sides and perused the judgment and award delivered by Learned Tribunal below.

**10.** After going through the judgment of the Learned Tribunal below it appears that at the time of delivery of the judgment and award, Learned Tribunal below awarded Rs.13,066/- towards treatment cost in the hospital, Rs.10,000/- as conveyance charge, Rs.100/- as compensation for service voucher, Rs.3,882/- towards purchase of medicines and a lump sum amount of Rs.50,000/- towards cost of treatment like medicines etc. Learned Tribunal below also awarded Rs.50,000/- towards pain and sufferings and Rs.30,000/- towards cost of future treatment. Learned Tribunal below further awarded Rs.30,000/- towards loss of amenities of life in favour of the respondent-claimant petitioner. In total Learned Tribunal below awarded a sum of Rs.1,87,050/- in favour of the respondent-claimant petitioner.

**11.** As already stated, at the time of hearing of argument Learned Counsel for the appellant-Insurance Company raised no dispute regarding granting of compensation by the Learned Tribunal below in favour of the respondent-claimant petitioner under different heads but only confined his argument to the extent of rate of interest @9% per annum imposed by the Learned Tribunal below.

**12.** Learned Counsel for the respondent-claimant petitioner submitted that the Learned Tribunal below after considering the oral/documentary evidence on record rightly delivered the judgment and award and rightly imposed 9% rate of interest as because in many cases Hon'ble the Apex Court also considered the same rate of interest and as such, there is no scope on the part of this Court to interfere with the same.

**13.** On the other hand, it was submitted by Learned Counsel for the appellant-Insurance Company that as per the present rate of interest of the nationalized Banks, the rate of interest cannot be imposed more than 7.5% and if 9% interest is imposed that would be beyond the decision taken by this Court in different cases. So, Learned Counsel for the appellant-Insurance Company urged for modification of the judgment and award delivered by Learned Tribunal below by reducing the rate of interest @7.5% per annum.

**14.** On perusal of the judgment and award delivered by Learned Tribunal below it appears that Learned Tribunal below after considering the oral/documentary evidence on record rightly awarded compensation of Rs.1,87,050/- in favour of the respondent-claimant petitioner but the Learned Tribunal below awarded interest @9% per annum which in my considered view appears to be in higher side because nowadays the nationalized banks also are providing rate of interest not more than 7 to 7.5% under different schemes and under different heads. So, to the extent of rate of

interest as imposed by Learned Tribunal below it appears to this Court that the same should be 7.5% as because this Court also in several judgments imposed rate of interest @ 7.5% per annum which the respondent-claimant petitioner will be entitled in this case along with the principle amount of Rs.1,87,050/- from the date of filing the claim petition to till the date of realization .

**15.** In the light of the above, the judgment and award delivered by Learned Tribunal below is modified to the extent that the appellant-Insurance Company shall pay the compensation amount of Rs.1,87,050/- along with interest @7.5% per annum in place of 9% per annum from the date of filing of the claim petition i.e. w.e.f 18.11.2022 till the date of payment/realization in favour of the respondent-claimant petitioner and the same amount shall be deposited by the appellant-Insurance Company to the Learned Tribunal below within a period of 6(six) weeks from the date of delivery of this judgment and order with intimation to the respondent-claimant petitioner.

A copy of this judgment be furnished free of cost to the Learned Counsel for the appellant-Insurance Company for information and compliance. Also a copy of this judgment be supplied to Learned Counsel for the respondent-claimant petitioner free of cost. Send down the LCR to the Learned Tribunal below along with a copy of this judgment and order.

With this observation, the instant appeal is disposed of.

Pending application(s), if any also stands disposed of.

**JUDGE**