

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MAC. App. No.35 of 2025

1. The Divisional Manager, the New India Assurance Co. Ltd.

..... *Appellant*

-VERSUS-

1. Mrs. Tripti Rani Roy (Saha) and 4 Others.

.....*Respondents.*

B_E_F_O_R_E
HON'BLE JUSTICE DR.T. AMARNATH GOUD

For Appellant(s)	:	Mr. G. S. Das, Advocate.
For Respondent(s)	:	Mr. K. Deb, Advocate.
		Mr. S. Deb, Advocate.
		Mr. P. K. Dhar, Sr. Advocate.
		Ms. P. Saha, Advocate.
Whether fit for reporting	:	NO

Judgment and order dated 31st July, 2025

JUDGMENT & ORDER [ORAL]

Heard.

[2] This is an application filed under Section-173 of the M.V. Act against the impugned award dated 13.01.2025 passed in T.S. (MAC) 220 of 2019 by the learned Member, Motor Accident Claims Tribunal, No. 4, West Tripura, Agartala, to reduce the awarded amount considering the notional income of the deceased as per notification of this Court dated 4th August, 2023 in absence of any profession of the deceased and also to reduce the rate of interest.

[3] The present appeal has been preferred against the judgment and award dated 13.01.2025 passed by the learned MAC Tribunal No.4, West Tripura, Agartala in T.S. (MAC) 220 of 2019 awarding Rs.29,24,500/- with 8% interest. The learned tribunal denying the notification of this Court dated 4th August, 2023, assessed the notional income of the deceased of Rs.25,000/- per month without any basis which may kindly be reduced with the amount of Rs.12,000/- per month as per guideline of this Court as notional income in absence of any profession of the deceased considering the Pharmacist licence as

skilled worker. The rate of interest is also awarded @ 8% p.a. which is high and may be reduced @ 7% p.a. As the award is high and excessive due to wrong assessment of the learned tribunal denying the guideline of this Court and as such the insurance company has preferred this appeal to reduce the awarded amount considering the guideline of this Court as a skilled worker.

[4] The learned Tribunal after hearing the parties and on perusal of the material evidence on record has observed as under:

“[20] In the result, present application under section 166 of the M.V. Act, 1988 filed by the claimants is allowed on contest with an award of ₹ 29,24,500/- (Rupees Twenty-Nine Lakh Twenty-four Thousand Five Hundred) only with 8 % simple interest from the date of filing of the claim petition i.e., from 04.11.2019.

[21] The OP No.2 New India Assurance Co. Ltd. is directed to pay the compensation amount as determined herein above within a period of 30 (thirty) days from the date of this award in terms of Section 168(3) of the Act.

[22] The OP No.2 shall give notice of the deposit of the compensation amount to the claimants and shall also file a compliance report with this Tribunal within 15 days of the deposit.

[23] Apportionment of the compensation so awarded amongst the claimants shall be as under:

(a) The claimant No. 1 Mrs. Tripti Rani Roy (Saha) being the widow of the deceased shall get 40% of the award money.

(b) The claimants No. 2, 3 & 4 being minor children, each shall get 20% therefrom.

[24] Out of the share of compensation including interest payable to the claimant No. 1 Mrs. Tripti Rani Roy (Saha), a sum to the tune of 40% shall be released to her by direct bank transfer and the rest 60 % shall be invested by purchasing separate Fixed Deposit Certificate in her name from any Nationalized Bank (preferably UCO Bank, District Court Branch, Agartala) for a period of five years with auto renewal facility and the claimant No.1 shall open savings account in the said bank, if not done already and the interest accrued on the fixed deposit certificate shall be directly transmitted to her savings account by the concerned bank. No loan or advance or pre-mature withdrawal shall be allowed from the investment of the FD without prior sanction of this Tribunal.

[25] Entire amount of the minor claimants No. 2, 3 and 4 shall be invested by purchasing separate Fixed Deposit Certificates in their names from any Nationalized Bank (preferably UCO Bank, District Court Branch, Agartala) for a period of five years or till their attaining the age of 21 years, whichever is later, with auto renewal facility. No loan or advance or pre-mature withdrawal shall be allowed from the investment of the FD without prior sanction of this Tribunal.”

[5] Being aggrieved by and dissatisfied with the same, the present appeal has been preferred by the appellant-insurance company before this Court for redress.

[6] Learned counsel appearing for the appellant has submitted that the learned tribunal accepted the point of argument rose by the Insurance Co. that the registration of Pharmacist licence is only the qualification of the deceased which is not profession or earning income. The notification referred to by the learned Counsel does not provide notional income of any such professionals and therefore such guideline cannot be adopted in the present case. But the learned tribunal ignoring the notification dated 4th August, 2023 considered the notional of Rs.25,000/- per month very illegally and arbitrarily.

[7] In the said notification, it is clearly stated "*In the cases where no income proof of the injured/deceased issued by the competent authority is submitted, notional wages for determination of compensation in the claim cases/appeals involving accidents which had taken place on or before 31.12.2015 and after 31.12.2015 shall be as follows*". In the said notification the notional wages of a skilled worker is Rs. 12,000/- per month. So, the learned tribunal ought to have considered the income of the skilled worker as the deceased had Pharmacist licence, but very illegally shifted the burden by denying the said guideline of this Court.

[8] The learned tribunal considered the notional income of the deceased of Rs.25,000/- per month without any basis and did not give any clarification on what basis the said notional income is considered. It is stated in the evidence that the deceased used to spent Rs.20,000/- per month for each children, it means Rs.60,000/- per month, but in the claim petition the income of the deceased was Rs.42,000/-. Hence it is made clear that the respondent claimants created the story of expenses and income suppressing the facts and has not come with clean hands. The learned tribunal below considering the rate of interest @8% per annum on the awarded amount which is high and excessive and hence the rate of interest has to be reduced with the rate of 7% per annum.

[9] Here in this case let us first take the question as to whether the claimants are entitled to get any compensation. Undisputedly, the claimants are

the legal representatives of the deceased as widow, sons and daughters. There is no evidence that they were not dependant on the income of the deceased and therefore, I am of the considered opinion that the claimants are entitled to get compensation for loss of life of their predecessor due to wrongful acts of the driver of the offending vehicle. In support of the age of the deceased, the claimants have produced documents. Conceding that the claimants failed to submit any document in support of income of the deceased, but from the assertions made by the witnesses with regard to profession and income of the deceased remained uncontroverted and same can be accepted.

[10] This Court finds that the accident and resultant death of the victim was due to rash and negligent driving of the offending vehicle and thus, the liability to pay the compensation would rest upon its owner. However, the owner has proved valid and effective insurance policy (Ext. B) of his vehicle issued by the insurer covering the date of accident. He also proved valid registration certificate (Ext. A) of the offending vehicle. He also proved driving licence (Ext. C) of the driver and all those documents are admitted by the insurer. There is no evidence or argument as to breach of the policy conditions and therefore, the insurer, in terms of the contract of insurance, is liable to pay the compensation as awarded by the learned tribunal.

[11] In view of overall analysis made by the learned Court below and after going through the material evidence in its entirety, this Court is of the view that the assessment of compensation as awarded by the learned Court below is just and proper and needs no interference thus, the findings as arrived at by the learned Court below stands affirmed. Regarding the interest part, the learned tribunal below has awarded 8% per annum which is obviously on the higher side. This Court in all matters is fixing 7.5% interest and to maintain uniformity while comparing the bank rate of interest which is also much less. Consequently, the claimants would be entitled compensation as observed by the learned tribunal below along with 7.5% interest per annum instead of 8% interest as awarded by the learned tribunal below, with effect from the date of presentation of the claim petition till the date of actual payment.

[12] In the light of the above, the present appeal stands disposed of. The awarded amount shall be deposited by the insurance company within a

period of one month from the date of receipt of the copy of this order, if not deposited earlier. However, it is made clear that on such deposit; the claimants are at liberty to withdraw the same unconditionally. As a sequel, miscellaneous applications pending, if any, shall stand closed.

DR.T. AMARNATH GOUD, J

A.Ghash

