



TRHC010003632024

2026:THC:634

HIGH COURT OF TRIPURA

AGARTALA

MAC APP 23 OF 2024

New India Assurance Company Ltd.,

Agartala Division, 4, Mantribari Road, P.S. West Agartala, District - West Tripura, Pin - 799001.

Represented by its Divisional Manager,
(Insurer of Auto Rickshaw bearing No. TR-01D-3800)

....Appellant.

Versus

1.Smti Dipali Roy,
W/o. Late Santi Bhusan Roy.

2.Sri Debasish Roy,
S/o. Late Santi Bhusan Roy.

3.Sri Uttam Roy,
S/o. Late Santi Bhusan Roy.

4.Smti Shyamali Shil,
D/o. Late Santi Bhusan Roy, W/o. Sri Jagadish Shil.

All are residents of Roy Colony, Amtali, P.S. Amtali, District - West Tripura,
Pin – 799130.

....Respondent Claimants.

5.Sri Samir Ranjan Das,
S/o. Sri Gouranga Ch. Das, resident of Roy Colony, Amtali, P.S. Amtali,
District - West Tripura, Pin – 799130,
(Owner of the Mahindra Max No. TR-01D-3800).

....Respondent Owner.

For the Appellant (s)

: Mr. Gitangshu Sekhar Das, Advocate.
Mr. Kushal Deb, Advocate.

For the Respondent(s)

: Mr. Tapas Datta Majumder, Sr. Advocete.
Mr. B. Kaipeng, Advocate.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

O R D E R

16/05/2026

Heard learned counsels of both sides.

2. The award passed by learned Member, Motor Accident Claim Tribunal No.2, West Tripura, Agartala on 05.10.2023, in T.S.(MAC) 250 of 2015 is under challenge in this appeal.

3. Initially, one Santi Bhusan Roy, the predecessor of the present respondent-claimants [here-in-after referred to as 'claimants'] filed a claim petition seeking compensation due to accidental injuries suffered by him on 01.01.2015 on his right leg out of use of vehicle bearing Registration No. TR01 D 3800 due to its rash and negligent driving. During pendency of said claim petition, said original claimant died. His legal representatives were substituted in his place and by way of an amendment the present claimants (viz. legal representatives) claimed that in the injury portion the deceased developed gangrene which ultimately turned into cancer and subsequently he died. Therefore, the cause of death of the deceased was associated with the injuries received by him in the said accident. The claimants also proved several medical papers in this regard in their evidence and ultimately learned Tribunal relying on Exhibit 4(i), Exhibit 4(i)(iv) and the death certificate under Exhibit 7, came to the conclusion that said death of the injured was caused due to aforesaid accidental injuries received by him on his right leg.

4. In this appeal, the insurance company has challenged the connectivity of the death of the deceased with such accidental injuries submitting that there is no proof in this case that the deceased had died as a consequence of gangrene developed by him in his injuries as received by him in the alleged accident and no post-mortem report was also submitted.

5. Learned counsel, Mr. G.S. Das for the appellant, therefore, submits that the connectivity between the death of the deceased and the injuries received by him were not established in this case, and therefore, learned Tribunal committed gross error in awarding the compensation determining that the deceased had died due to such accident.

6. Learned senior counsel, Mr. T. Datta Majumder for the claimants has brought to the notice of the Court all the relevant documents relating to the treatment of the deceased and submits that due to said gangrene developed in the right leg of the deceased in the injury portion,

ultimately, it turned into carcinoma and he received treatment in Agartala Regional Cancer Hospital and unfortunately later on he died. Learned senior counsel also submits that all the related documents in connection with his treatment were also proved in the record. But, according to learned senior counsel, inadequate compensation was granted to the claimants and as no compensation was awarded on the ground of loss of income or loss of dependency of the claimants.

7. Court has considered the submissions of learned counsels of both sides and has gone through the relevant papers proved from the side of the claimants, more particularly, the Exhibit 4(i) and Exhibit 4(i)(iv). It is submitted by the parties that no medical officer was examined in this case. Exhibit 3 which is an X-ray report issued by one doctor on 11.03.2015 shows that there was Osteoarthritis on the right knee-joint of the deceased. But patella appeared to be normal and there was no evidence of fracture or loose bodies. However, in another place of X-ray report, on AP view, it is mentioned that there was a 'comminuted intertrochanteric' fracture seen on the right femur. Exhibit 4(i) is OPD ticket issued from the OPD of AGMC and GBP Hospital, Agartala in the name of the deceased which indicates that MRI of LS spine was suggested and finally, 'plasmacytoma' was detected and he was referred to Cancer Hospital, Agartala. Exhibit 4(iv) is another OPD ticket issued by the Regional Cancer Hospital, Agartala wherein also it was diagnosed as 'plasmacytoma sacrum' and medication was accordingly prescribed.

8. Normally, 'plasmacytoma' means one type of blood cancer. Anyway, as admitted by both the parties, no medical officer was examined in this case. According to this Court without examining any medical officer on that point, it would not be proper to give any specific observation either by learned Tribunal or by this Court as to whether the said cancer was related to the accidental injuries received by the deceased or not.

9. In view of above, a proper judicial inquiry is required to be conducted and claimants should get a scope to adduce further satisfactory evidence to establish their claim that due to development of cancer on the place of accidental injuries in right knee, the deceased ultimately died.

10. Considering thus, the impugned award dated 05.10.2023, passed in TS(MAC) 250 of 2015 as stated earlier, is hereby set aside. The case is remanded back to learned Tribunal to conduct a fresh inquiry on this issue. The claimants will furnish the name and address of the doctor(s) to be examined, before the Tribunal and accordingly, the Tribunal will issue summons to the concerned medical officer to appear before the Tribunal and thereafter will record the testimony of said witness(s). Then, the Tribunal shall finally hear the parties and decide the matter afresh strictly in accordance with law. Needless to say, if the appellant-insurance company intends to adduce any rebuttal evidence at that point, they will be at liberty to do so. The Tribunal will take all endeavour to dispose of the case as early as possible preferably within four months on receipt of the record, since it is a matter of 2015.

11. The parties will appear before the learned Tribunal on 26.05.2026. If any party fails to appear on that day before learned Tribunal, the learned Tribunal may issue summons upon them.

12. Accordingly, the appeal is dismissed.

13. Send back the record of the learned Tribunal along with a copy of this judgment.

JUDGE