

IN THE COURT OF THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL:.....NALBARI.**1. MAC No.226/2003.*****Parties:-***

1. Smti. Champa Basumatari @ Champa Boro.

- Claimant.

-VERSUS-

1. Sri Hemen Baishya.

2. Sri Niren Kalita.

3. The United India Insurance Company Ltd.

- Opp. Parties.

2. MAC No.229/2003.***Parties:-***

1. Sri Kamal Nath.

- Claimant.

-VERSUS-

1. Sri Hemen Baishya.

2. Sri Niren Kalita.

3. The United India Insurance Company Ltd.

- Opp. Parties.

3. MAC No.231/2003.***Parties:-***

1. Sri Amulya Nath.

- Claimant.

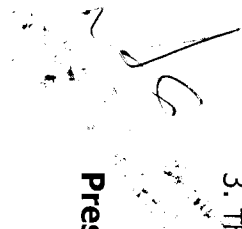
-VERSUS-

1. Sri Hemen Baishya.

2. Sri Niren Kalita.

3. The United India Insurance Company Ltd.

- Opp. Parties.


Present: Mr. A.K. Sarmah. LLM, AJS.**Presiding Officer / Member****MACT, Nalbari.****Appearance:-**

For the claimant (in all the MAC cases)

Ld. Advocate Mr. K. Ali.

For the Op. No.1 & 2 (in all the MAC cases)

None has appeared.

For the Opp. No.3 (in all the MAC cases)

Ld. Advocate Mr. M. Haque.

Date of evidence (in MAC case No.226/03 and 231/03) 05-09-2014 and 05-11-2014.

Date of evidence (in MAC Case No.229/03)	15-10-14 and 11-12-14.
Date of Argument (in MAC case No.226/03 and 231/03)	03-12-2014.
Date of Argument (in MAC Case No.229/03)	11-12-2014.
Date of Judgment (in all the MAC cases)	11-12-2014.

In all the three MAC cases the insurance company is the same. The opposite parties are the same, the facts of all the MAC cases are same. The date, place and time of the occurrence are the same, the offending vehicle is the same so, all the three cases are taken up together for hearing and being disposed of by this common judgment.

J U D G M E N T

1. The claimant Smti., Champa Basumatari @ Champa Boro in MAC Case No.226/03 D/O: Sri Laguna, resident of Vill & P.O.: Barama under the Barama Police station (for short PS) Dist: Nalbari, In MAC No.229/03 the claimant Sri Kamal Nath, S/O: Sri Parama Nath, resident of village: Chowk Bazar, Nalbari, under Nalbari Police station and in MAC No.231/03 the claimant Sri Amulya Nath S/O: Lt. Mina Ram Nath, resident of Vill:- Adalbari Under Mukalmua P.S. in the district Nalbari filed their respective applications U/S 166 of the Motor Vehicles Act' 1988 (in short M.V. Act) claiming compensation to the tune of Rs.1,00,000/- each due to injuries sustained by them on account of vehicular accident which took place on 11-02-2002 at about 5:15 a.m. at Gandhmou PWD road under Sualkuchi P.S.

2. The factual matrix in all the three MAC cases mentioned here in before can be stated as under:-

All the claimants were travelling by a mini bus having registration No.AS-01/H-8685 from Saraidue in the district of Sivasagar to Sualkuchi after attending a picnic, but on the way, at Gandhmou PWD road under Sualkuchi P.S. the said bus due to rash and negligent driving of its driver met with an accident at about 5:15 a.m., on 11-02-2002. Due to the said accident almost all inmates of the offending vehicle including the claimants herein sustained grievous injuries on their person. For that accident, police was informed and a case was registered vide Sualkuchi P. S. GD entry No.174 dtd, 11-02-2002. It is also the case of the claimants that the offending vehicle having registration No.AS-01/H-8685 (708 mini bus) was duly insured with the opposite party No.3 i.e. the United India Insurance Company Ltd, and it had a valid insurance coverage at the time of accident. The claimants for the above premises claimed Rs.1,00,000/- each as compensation for the injuries sustained by them due to vehicular accident.

3. On receipt of the claim petitions, notices were issued to the owner, driver as well as the united India Insurance Company i.e. the insurer of the offending bus having registration No.AS-01/H-8685.

4. In spite of receipt of the notices from this Tribunal, neither the opposite party No.1 nor the opposite party No.2 i.e. the owner and driver of the offending vehicle respectively appeared before this Tribunal. Therefore the case proceeded against them ex-parte in all the three MAC cases.
5. However, the opposite party No.3 i.e. the United India Insurance Company Ltd., in all the three MAC cases appeared before this Tribunal and submitted its written statements (in short WS) in all the three MAC cases. The opposite party No.3 in its WS in all the three MAC cases denied the factum of accident and rash and negligent driving of the driver of the offending vehicle. Further, the opposite party No.3 in all the three MAC cases disowning all allegations made by the claimants against it and asked the claimants to prove their case by adducing cogent and reliable evidence.
6. The claimants in all the three MAC cases examined themselves as CW 1 respectively to prove their cases. They were duly cross-examined by the Ld. Counsel of the opposite party No.3 in all the three MAC cases.
7. After hearing both the sides and gone through the claim petitions filed by the claimants, the WS filed by the opposite party No.3, this Tribunal framed the following common issues for just and proper adjudication of all the three MAC cases. The issues are:-
 - (i) Whether the claimants are entitled to get any compensation as prayed for and if so, to what extent and from whom?
 - (ii) To what other relief or reliefs, the claimants are entitled to?
8. **Decision and reasons for decision:-**
9. I have heard arguments from both sides and perused the evidence on record in all the three MAC cases. After hearing both sides, this Tribunal is going to decide the fate of all the three MAC cases jointly.

(Issue No.1)

10. The claimant Smti., Champa Basumatari @ Champa Boro in the MAC No.226/03 in her claim petition as well as in her evidence stated that on 11-02-2002 while they were returning in the offending vehicle having registration No.AS-01/H-8685 from Sivasagar to Sualkuchi, the said vehicle met with an accident at about 5:15 a.m., due to rash and negligent driving of the driver of the offending vehicle at Gandhmou PWD road under Sualkuchi P.S. and for that accident she got grievous injuries on her person.

11. The claimant Sri Kamal Nath in MAC Case No.229/03 and also the claimant Sri Amulya Nath in MAC 231/03 in their respective claim petition as well as in their respective evidence categorically stated that while they were travelling in the offending vehicle from Sivasagar to Sualkuchi on the

relevant day and time, the said vehicle due to rash and negligent driving of the driver met with an accident at Gandhmou PWD road under Sualkuchi P.S. As a result of the accident, they also got grievous injuries on their person.

12. In cross- examination, the claimant Smti., Champa Basumatari @ Champa Boro specifically stated that she went to Sivasagar for a picnic along with other persons from Sualkuchi. The accident took place in the early in the morning. She got injuries on her leg and hand. According to her, she spent Rs.12,000/- for her treatment due to the accident.

13. In cross- examination the claimant Sri Kamal Nath specifically stated that he got injuries on his both hand. He also lost a teeth in the said accident and he expended Rs.8000/- to Rs.9000/- for his treatment.

14. In MAC No.231/03 the claimant in his cross- examination categorically stated that they were returning from Sivasagar after attending a picnic in the early in the morning on the relevant day along with 20/30 persons. The said vehicle met with an accident at Gandhmou PWD road under Sualkuchi P.S. For that accident he got injuries on his chest, back side of his leg. He got treatment at Sualkuchi hospital and he expended Rs.15,000/- to Rs.16,000/- towards his medical treatment.

All the claimants produced the accident information report as well as injury report on their respective person.

15. From the oral evidence of the claimants in all the three MAC cases it is clear that on the relevant date, time and place there had been an accident due to rash and negligent driving of the driver of the offending mini bus and for that accident the claimants got injuries as they were travelling in the said bus as passengers and there is no doubt on this point.

16. Now the points to be decided in all the three MAC cases what amount of compensation the claimants are entitled to?

17. In MAC No.226/03 the claimant Smti., Champa Basumatari @ Champa Boro clearly stated that she had expended Rs.12,000/- for her treatment. But no vouchers was produced by her to substantiate her claim but we know that if a person got injury i.e. simple injury due to accident, she might have expended Rs.4000/- for her treatment. Therefore, this Tribunal awarded a lum sum amount of Rs.4000/- towards her medical expenses. As the claimant got simple injury therefore, she is entitled to get Rs.1000/- for pain and suffering due to her simple injury. Accordingly, the said amount is awarded to the claimant in MAC No.226/03.

Thus the total amount of compensation the claimant Smti., Champa Basumatari @ Champa Boro is entitled on different heads as under:-

1. For pain and suffering due to simple injury:- Rs.1000/-.

2. For medical expenses: -

Rs.4000/-.

Total compensation:

Rs.5000/-

Thus, the total amount of compensation comes to Rs.5,000/- (Rupees five thousand only).

The said amount is awarded to the claimant Smti., Champa Basumatari @ Champa Boro in MAC No.226/03 for the injuries sustained by her due to vehicular accident.

18. In MAC No.229/03 the claimant Sri Kamal Nath specifically stated that he expended Rs.8000/- to Rs.9,000/- towards his medical treatment. A medical certificate issued by the doctor shows that the claimant Kamal Nath got simple and grievous injuries but he produced a voucher showing his expenditure Rs.195/-. The said voucher and medical certificate has not been exhibited and proved by the claimant in due course of his evidence. Therefore, this Tribunal is unable to accept the said medical vouchers and certificate. We know that a person getting simple injury due to accident required Rs.4000/- for purchasing medicine etc. So, the said amount is awarded to the claimant for his medical expenses. Rs.1000/- is also awarded to the claimant for pain and suffering due to the accident. Thus, the total amount of compensation the claimant is entitled to on different heads as under:-

1. For pain and suffering

for simple injury :-

Rs.1000/-

2. For medical expenses: -

Rs.4000/-

Total compensation:

Rs.5000/-.

Thus, the total amount of compensation comes to Rs.5,000/- (Rupees five thousand only).

The said amount is awarded to the claimant Sri Kamal Nath in MAC No.229/03 for the injuries sustained by him due to vehicular accident.

19. In MAC No.231/03 the claimant Sri Amulya Nath specifically stated that he expended Rs.15000/- to Rs.16,000/- towards his medical treatment. There is no documentary evidence to show that the claimant got grievous injuries on his person due to vehicular accident. Therefore, to the opinion of this Tribunal, the claimant got simple injury due to the said accident. We know that a person getting simple injury due to accident required Rs.4000/- for purchasing medicine etc. So, the said amount is awarded to the claimant for his medical expenses. Rs.1000/- is also awarded to the claimant for pain and suffering due to the accident. Thus, the total amount of compensation the claimant is entitled to on different heads as under:-

1. For pain and suffering
for simple injury :- Rs.1000/-
2. For medical expenses: - Rs.4000/-

Total compensation: Rs.5000/-.

Thus, the total amount of compensation comes to Rs.5,000/- (Rupees five thousand only).

The said amount is awarded to the claimant Sri Amulya Nath in MAC No.231/03 for the injuries sustained by him due to vehicular accident.

20. Now another point to be decided in all the three MAC cases by whom of the opposite parties the above amount of compensation is liable to be paid to the claimants?

It is not disputed that the opposite party No.3 i.e. the United India Insurance Company Ltd., was the insurer of the offending vehicle having registration No.AS-01/H-8685 and at the time of accident the offending vehicle had valid insurance coverage. The opposite party No.1 and 2 in all the three MAC cases did not appear before this Tribunal therefore the case proceeded ex-parte against them in all the three MAC cases. The opposite party No.3 nowhere denied that the offending vehicle was not insured with it and it had no valid insurance coverage at the time of accident. So, to the opinion of this Tribunal the opposite party No.3 is liable to pay the said amount of compensation to the claimants in all the three MAC cases.

Therefore, this issue in all the three MAC cases is decided accordingly.

(Issue No.2)

21. As discuss in issue No.1 the claimants in all the three MAC cases mentioned herein before are entitled to get compensation as per order.


This issue is decided in the affirmative.

(O R D E R)

22. In the result, the claim petitions of all the three MAC cases are allowed. The claimant Smti, Champa Basumatari @ Champa Boro in MAC Case No.226/03 is entitled to get Rs.5,000/- (Rupees five thousand only), in MAC Case No.229/03 the claimant Sri Kamal Nath is entitled to get Rs.5,000/- (Rupees five thousand only) and in the MAC 231/03 the claimant Sri Amulya Nath is also entitled to get Rs.5,000/- (Rupees five thousand only) as compensation. Therefore, the said amount i.e. Rs.5000/- (five thousand) each calculated on different heads are awarded to the claimants. The opposite party No.3 i.e. the United India Insurance Company Ltd., is directed to pay the said amount

of compensation to the claimants within 60 days from today failing which an interest @ 6% be calculated from today on the awarded amount until realization.

- 23.** Let copy of the judgment be furnished to the opposite party No.3 i.e. the United India Insurance Company Ltd., within 15 (fifteen) days from today as per Provisions of Section 168 (2) of the M.V. Act.
- 24.** Both the MAC Cases are disposed of accordingly, on contest.
- 25.** Judgment prepared, signed and pronounced, today the 11th Day of December 2014 in the open court in both the cases.


Presiding Officer/ Member

MACT, Nalbari.