

**IN THE COURT OF THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL:.....NALBARI.**

**MAC No.238/2003.**

***Parties:-***

1. Sri Satya Jit 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

Ld. Advocate Mr. K. Ali.

For the Op. No.1 & 2:

None has appeared.

For the Opp. No.3

Ld. Advocate Mr. M. Haque.

Date of evidence:

05-09-2014 and 05-12-2014.


Date of Argument:

12-12-2014.

Date of Judgment

12-12-2014.

**J U D G M E N T**

- 
1. The claimant Sri Satyajit Nath, S/O: Naba Nath, resident of village: Tamulpur, under Tamulpur Police station (in short PS) in the district Nalbari filed this application U/S 166 of the Motor Vehicles Act' 1988 (in short M.V. Act) claiming compensation to the tune of Rs.1,00,000/- due to injuries sustained by him 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 the MAC case mentioned here in before can be stated as under:-

While the claimant was 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 claimant herein sustained grievous injuries on his 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 claimant 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 claimant for the above premises claimed Rs.1,00,000/- as compensation for the injuries sustained by him 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.** Inspite 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 the case.

**5.** However, the opposite party No.3 i.e. the United India Insurance Company Ltd., appeared before this Tribunal and submitted its written statements (in short WS). The opposite party No.3 in its WS denied the factum of accident and rash and negligent driving of the driver of the offending vehicle. Further, the opposite party No.3 disowning all allegations made by the claimant against it and asked the claimant to prove his case by adducing cogent and reliable evidence.

**6.** The claimant in support of his claim examined himself as CW 1 to prove his case. He was duly cross-examined by the Ld. Counsel of the opposite party No.3.

**7.** After hearing both the sides and gone through the claim petitions filed by the claimant, the WS filed by the opposite party No.3, this Tribunal framed the following issue for just and proper adjudication of the case. The issues are:-

(i) Whether the claimant is 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 claimant is entitled to?

**8. Decision and reasons for decision:-**

**9.** I have heard arguments from both sides and perused the evidence on record. After hearing both sides, this Tribunal is going to decide the fate of the case.

**(Issue No.1)**

**10.** The claimant Sri Satyajit Nath in his claim petition as well as in his evidence categorically stated that while he was 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, he got grievous injuries on his person.

**11.** In cross- examination, the claimant stated that he was treated at Sualkuchi. Due to the accident he could not perform his cultivation work for about three months. According to him, he had to spent Rs.7000/- to Rs.8000/- towards his medical treatment due to the accident.

The claimant produced the accident information report as well as injury report in support of his claim.

**12.** From the oral evidence of the claimants in the case 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 claimant got injuries as he was travelling in the said bus as passenger and there is no doubt on this point.

**13.** The claimant specifically stated that he expended Rs.7000/- to Rs.8,000/- towards his medical treatment. A medical certificate issued by the doctor shows that the claimant got simple and grievous injuries. He also produced two vouchers showing his expenditure Rs.900/-. The said vouchers and medical certificate had 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. But 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/-
<hr/>	
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 for the injuries sustained by him due to vehicular accident.

**14.** Now another point to be decided by whom of the opposite parties the above amount of compensation is liable to be paid to the claimant?

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 did not appear before this Tribunal, therefore, the case proceeded ex-parte against them. 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 claimant.

Therefore, this issue is decided accordingly.

**( Issue No.2 )**

**15.** As discuss in issue No.1 the claimant is entitled to get compensation as per order.

This issue is decided in the affirmative.

**( O R D E R )**

**16.** In the result, the claim petition is allowed. The claimant Sri Satyajit Nath is entitled to get Rs.5,000/- (Rupees five thousand only) as compensation. Therefore, the said amount i.e. Rs.5000/- (five thousand) calculated on different heads is awarded to the claimant. The opposite party No.3 i.e. the United India Insurance Company Ltd., is directed to pay the said amount of compensation to the claimant within 60 days from today failing which an interest @ 6% be calculated from today on the awarded amount until realization.

**17.** 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.

**18.** The MAC Case is disposed of accordingly, on contest.

**19.** Judgment prepared, signed and pronounced, today the 12<sup>th</sup> Day of December '2014 in the open court in both the cases.



Presiding Officer/ Member,

MACT, Nalbari.