

BEFORE THE PRESIDING OFFICER /MEMBER MACT.....NALBARI.

MAC No.290/2012.

Parties:-

1. Md. Rafik Ali Ahmed.

- *Claimant.*

-VERSUS-

1. Sri Guna Ram Das.

2. Sri Ratul Boro.

3. The National Insurance Company Ltd.

- *Opp. Parties.*

Present: Mr. A.K. Sarmah, LL.M, AJS.

Presiding Officer/ Member

MACT, Nalbari.

Appearance:-

For the claimant:

Ld. Advocate Mrs. G. Buzarbaruah.

For the Op. No.1and 2:

None has appeared.

For the Op. No.3:

Advocate's name is not eligible.

Dates of evidence:

12-06-13 and 02-09-14.

Date of Argument:

03-12-2014.

Date of Judgment:

20-12-2014.

(J U D G M E N T)

1. The claimant Md. Rafik Ali Ahmed son of Lt. Samir Ali, resident of village:-Degheli under Barama police station (in short PS) in the District of Baksa BTAD filed this application U/S 166 of the Motor Vehicles Act 1988 (in short M.V. Act) praying compensation to the tune of Rs.5,00,000/- for the injuries sustained by him due to vehicular accident which was occurred on 09-07-2012 at Madhapur on the National Highway No.31 (In short NH-31) at about 10 a.m.

2. The brief facts leading to the filing of this application can be stated as under:-

On 09-07-2012 at about 10 a.m., the claimant was coming by his bicycle on the left side of the road on NH-31 suddenly, he was knocked down by the offending vehicle having registration No.AS-01/AH-6150 (Maruti Alto) driven by its driver in a rash and negligent manner at about 10 a.m., at Madhapur. Due to the said accident, the claimant got grievous injuries for which he was immediately

shifted to Nalbari civil hospital. Thereafter, he was admitted at NMB Baruah Nursing Home from there he was referred to Guwahati Medical College and Hospital (In short GMCH) by the said nursing home. It is the case of the claimant that for that accident, police was informed and a case was registered vide Barama P.S. case No.37/12 U/Ss 279/338/427 IPC. It is also the case of the claimant that the offending vehicle was duly insured with the National Insurance Company Ltd., and it had valid insurance coverage at the time of accident. The claimant for the above premises claimed Rs.1,50,000/- as compensation for the injuries sustained by him due to vehicular accident.

3. On receipt of the claim petition, notices were issued to the opposite party No.1 and 2 the owner and driver of the offending vehicle and the opposite party No.3 i.e. the National Insurance Company Ltd., the insurer of the offending vehicle.

4. Inspite of received of notices from this Tribunal the opposite party No.1 and 2 i.e. the owner and driver of the offending vehicle did not appear before this Tribunal, therefore the case proceeded ex-parte against him.

5. However, the opposite party No.3 i.e. the National Insurance Company Ltd., appeared before this Tribunal and submitted its written statement (in short WS). In its WS the opposite party No.3 denied the factum of accident as well as injuries sustained by the claimant. The opposite party No.3 further dis-owing all the allegations made by the claimant 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 CW1. He was duly cross-examined by the Ld. Counsel of the opposite party No.3.

7. Upon hearing both sides and gone through the claim application filed by the claimant as well as WS filed by the insurance company, this Tribunal framed the following issues 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 argument from both sides. I also perused the evidence on record carefully.

10. Now, let me first of all, discuss the evidence on record to decide the issue No.1.

11. Road traffic accident now a days is a menace of the society. So many lives have been lost due to accident. It is a human tragedy. Road traffic accident normally occurred due to none taking due care and caution by the drivers who driver the vehicle. Due to rash and negligent driving of the drivers, due to road conditions and traffic of the road as well as many other factors are the real causes for road traffic accident. It is a great tragedy. We have loss a lot of young men and women due to road traffic accident.

(Issue No.1)

12. The claimant in his claim petition as well as in his evidence as CW 1 clearly and categorically stated that on 09-07-2012 at about 10 a.m., he was coming by his bicycle in the left side of the road on NH-31. Suddenly at about 10 a.m., he was knocked down by the offending vehicle having registration No.AS-01/AH-6150 (Maruti Alto) driven by its driver in a rash and negligent manner at Madhapur. Due to the said accident the claimant got grievous injuries and he was immediately shifted to Nalbari civil hospital, thereafter, NMB Baruah Nursing Home from there he was referred to Guwahati Medical College and Hospital (In short GMCH) by the said nursing home. In his cross- examination the claimant specifically reiterated the said fact which he has stated in his examination in chief. He further testified that he has forgotten the number of the vehicle and what was written in his FIR. In course of his evidence he exhibited and proved several documents including Exhibit 1 accident information report, Exhibit 2 medical certificate issued by Nalbari civil hospital, Exhibit-3 certificate issued by GMCH and other relevant documents and vouchers.

13. From the oral evidence of CW 1 together with documentary evidence of Exhibit 1 to Exhibit 3 make the position clear that on the relevant date, time and place there had been an accident due to rash and negligent driving by the driver of the offending vehicle and as a result of the said accident the claimant got simple injuries on his person and there is no reason to disbelieve the said fact.

14. Now the question is what amount of compensation the claimant is entitled to?

The claimant in his evidence as CW 1 stated that he expended Rs.1,50,000/- for his treatment and he claimed Rs.5 lakhs as compensation. From medical vouchers exhibited and proved by the claimant showed that he expended Rs.6474/- for his treatment. The cash memos submitted by the claimant from Lachit Medico's showed huge amount of money he has expended but this Tribunal did not believe that a person getting simple injury required such huge quantity of medicine for his treatment. Therefore, the amount shown in cash memos issued by the Lachit Medico's is hereby rejected considering the said cash memos are not genuine. But we know that a person getting simple injuries requires some sort of medicine for his speedy recovery, therefore, this Tribunal awarded a lum sum amount of Rs.15,000/- for purchasing medicine along with Rs.6474/- which this Tribunal has already accepted. As the claimant got simple injury, therefore, he is entitled to get Rs.1000/- for pain and suffering for his simple injury. As the claimant got treatment at different hospitals including GMCH, therefore, an amount of Rs.500/- is

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awarded to the claimant towards his convenience allowance. As the claimant did not get any treatment as indoor patient therefore, there is no question of loss of income during the period of his treatment. There is no evidence at all to show that the claimant needs future treatment for the injuries sustained by him in that accident. So, the claimant is not entitled to get any compensation for his future treatment. Thus, the total amount of compensation the claimant is entitled to on different heads as under:-

1. For simple injury:-	Rs.1000/-
2 For convenience allowance:-	Rs.500/-
4. For medical expenses:-	Rs.21,474/-

Total compensation:- Rs.22,974/-

Thus, the total amount of compensation comes to Rs.22,974/- (Rupees twenty two thousand nine hundred seventy four only).

15. Now another point to be decided by whom the above amount of compensation is liable to be paid to the claimant?

The opposite party No.1 and 2 inspite of received of notices from this Tribunal did not appear before this Tribunal therefore, the case proceeded ex-parte against them. However, the opposite party No.3 i.e. the National Insurance Company Ltd., appeared before this Tribunal and submitted its WS but no evidence was given by the opposite party No.3 to prove its WS to show that the offending vehicle was not insured with it and there was no valid insurance coverage at the time of accident. Therefore, to the opinion of this Tribunal the opposite party No.3 i.e. the National Insurance Company Ltd., is liable to pay the said amount of compensation to the claimant.

Hence, this issue is decided accordingly.

(Issue No.2)

16. 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)

17. In the result, the claim petition is allowed. The total amount of compensation to the tune of Rs.22,974/- (Rupees twenty two thousand nine hundred seventy four only)/- which is rounded to Rs.22,975/- (Rupees twenty two thousand nine hundred seventy five only) as calculated on different heads is awarded to the claimant. The opposite party No.3 i.e. the National Insurance Company Ltd., is directed to pay the said amount of compensation to the clamant within 60 days from today failing which

an interest @ 6% per annum be calculated on the awarded amount from the date of filing of the claim application until realization.

18. Let a copy of the judgment be furnished to the opposite party No.3 i.e. the National Insurance Company Ltd., within 15 (fifteen) days from today as per Provisions of Section 168 (2) of the M.V. Act.

19. This MAC Case is disposed of accordingly, on contest.

20. Judgment prepared, signed and pronounced, today the 20th Day of December 2014 in the open court.


Presiding Officer/ Member,

MACT, Nalbari.