

01-2002. It is also the case of the claimant that the offending vehicle was duly insured with the opposite party No.3 i.e. the New India Assurance Company Ltd., and it had valid insurance coverage at the time of accident. The claimant for the above premises claimed Rs.2,00,000/- as compensation due to grievous injuries sustained by him in the vehicular accident.

3. On receipt of the claim petition, notices were issued to the opposite party No.1 i.e. the owner of the offending vehicle, the opposite party No.2 i.e. the driver of the offending vehicle as well as the opposite party No.3 i.e. the New India Assurance Company Ltd., the insurer of the offending vehicle.

4. In spite of receipt of notices, the owner and the driver of the offending vehicle did not appear before this Tribunal, therefore, the case proceeded ex- parte against them.

5. However, the opposite party No.3 i.e. the New India Assurance Company Ltd., after getting notices from this Tribunal appeared before it and submitted its written statement (in short WS). In its WS the opposite party No.3 denied the factum of accident as well as involvement of the offending vehicle in the said accident. According to opposite party No.3 the claim made by the claimant is not based on true fact and asked the claimant to prove his case by adducing cogent and reliable evidence.

6. The claimant in support of his case examined himself as CW1. He was duly cross-examined by the Ld. Counsel of the opposite party No.3. The opposite party No.3 did not examine any witness in support of its WS.

7. Upon hearing both sides and gone through the claim application filed by the claimant as well as WS filed by the opposite party No.3, 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?

Yes

8. Decision and reasons for decision:-

Road traffic accident now a days is a menace of the society. So many lives have been loss 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 cause for road traffic accident. It is a great tragedy. We have loss a lot of young man and woman due to road traffic accident.

9. I have heard argument from both sides. I also perused the evidence on record very carefully.

10. After hearing both sides, gone through the evidence on record this Tribunal decide the case issue wise as follows:-

(Issue No.1)

11. The claimant in his claim petition as well as in his evidence as CW1 clearly and categorically stated that on 09-01-2002 while he was travelling from Pathsala towards Guwahati side in the offending vehicle having registration No.AS-14/7545 on the NH-31 and when the said bus reached at Barkura Chowk, the offending bus hit another standing bus at the said Barkura Chowk from behind at about 8 a.m. As a result of the accident, he got grievous injuries on his person. His three teeth were broken. In course of his evidence, the claimant exhibited and proved Exhibit-1 accident information report, Exhibit-2 medical certificate issued by Nalbari civil hospital and several other documents and vouchers.

Though CW1 was duly cross- examined by the Ld. Counsel of the opposite party No.3 but failed to discredit his evidence. In his cross- examination, the claimant reiterated the said facts which he had stated in his examination in chief. According to him, the offending bus in which he was travelling hit another standing bus at Barkura Chowk at about 8:30 a.m., on the day of occurrence i.e. on 09-01-2002. As a result of the said accident, he got grievous injuries on his person. He further stated that he had spent Rs.20,000/- to Rs.25,000/- for his treatment. Exhibit-2 the injury report issued by the Nalbari Civil hospital shows that the claimant got grievous injuries on his person. From the said injury report it is also clear that three teeth of the claimant were loose for that accident.

12. From the oral evidence of CW1 together with documentary evidence of Exhibit 1 and Exhibit 2 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 grievous injury on his person and there is no reason to disbelieve the said fact.

13. We know that a person getting injury due to vehicular accident on public road as a result of rash and negligent driving of the driver of the offending vehicle is entitled to get compensation under the Motor Vehicles Act. In the present case, as noted here in before, the claimant got injuries on his person as a result of rash and negligent driving of the offending vehicle therefore, he is entitled to get compensation.

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

The claimant in his claim petition stated that he had expended Rs. 20,000/- to Rs.30,000/- for his treatment due to injuries sustained by him in the accident. From the exhibited vouchers, it appears that the claimant had expended Rs.18,481/- for his treatment due to injuries sustained by him in the

accident. So, this Tribunal awarded the said amount towards his medical treatment. The amount shown in Exhibit-4 (2) is rejected because there was over writing on the date of purchasing medicine.

15. We know that fracture is a grievous injury as defined U/S 302 of the IPC. As noted herein before as the claimant got grievous injuries due to the vehicular accident, therefore, the claimant is entitled to get Rs.5000/- for grievous injury. This Tribunal is also awarded a lump sum amount of Rs.2000/- towards pain and suffering for his grievous injuries. There is no evidence on record to show that claimant needs money for future treatment so, no compensation is awarded for future treatment.

Thus, the total amount of compensation the claimant is entitled to on different heads as under:-

- | | |
|-----------------------------|--------------|
| 1. For grievous injury:- | Rs.5000/-. |
| 2. For pain and suffering:- | Rs.2000/-. |
| 3. For medical expenses :- | Rs.18,481/-. |

Total Compensation = Rs.25,481/-

Thus, the total amount of compensation comes to Rs.25,481/- (Rupees twenty five thousand four hundred eighty one only).

16. 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 did not appear before this Tribunal therefore, the case proceeded ex-parte against them. However, the opposite party No.3 appeared before this Tribunal and submitted its WS but failed to examine any witness to prove its WS. Therefore, the submission of opposite party No.3 i.e. the New India Assurance Company Ltd., that the offending vehicle was not insured with it and it had not insurance coverage at the relevant time of accident is not believable by this Tribunal. So, to the opinion of this Tribunal the opposite party No.3 is required to pay the said amount of compensation to the claimant.

Therefore, this issue is decided in the affirmative.

(Issue No.2)

17. As discuss in issue No.1 the claimant is entitled to get compensation as per order.
This issue is decided accordingly.

(O R D E R)

- 18.** In the result, the claim petition is allowed. The total amount of compensation to the tune of Rs.25,481/- (Rupees twenty five thousand four hundred eighty one only) /- which is rounded to Rs.25,480/- /-(Rupees twenty five thousand four hundred eighty only) /- as calculated on different heads is awarded to the claimant. The opposite party No.3 i.e. the New India Assurance Company Ltd., is directed to pay the said amount of compensation to the claimant within 60 days from today failing which an interest @ 6% per annum be calculated from today on the awarded amount until realization.
- 19.** Let a copy of the judgment be furnished to the opposite party No.3 i.e. the New India Assurance Company Ltd., within 15 (fifteen) days from today as per Provisions of Section 168 (2) of the M.V. Act.
- 20.** This MAC Case is disposed of accordingly, on contest.
- 21.** Judgment prepared, signed and pronounced, today the 17th Day of December 2014 in the open court.


Presiding Officer / Member,

MACT, Nalbari.