



U/Ss 279/337/338/304 (A)/427 IPC. It is also the case of the claimant that the offending vehicle was duly insured with the opposite party No.3 i.e. the National Insurance Company Ltd., and it had valid insurance coverage at the time of accident. The claimant for the above premises claimed Rs.2,50,000/- as compensation due to grievous injuries sustained by his minor daughter 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 National Insurance Company Ltd., the insurer of the offending vehicle.

4. Inspite 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 National Insurance Company Ltd., after getting notices from this Tribunal appeared before it and submitted its written statement (in short WS).

In it's WS the opposite party No.3 denied the factum of accident and asked the claimant to prove his case by adducing cogent and reliable evidence.

6. In order to prove his claim, the claimant examined himself as CW1. He was duly cross-examined by the Ld. Counsel of the opposite party No.3. However, 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?

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

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 01-03-2002 his daughter Dimpy Kalita was travelling in the offending vehicle having registration No.AS-01/F-0515 with her family members from Kamakhya temple towards Nalbari, the

said vehicle met with an accident at Kamakhya temple road and fell down on the ground. As a result of the accident, his daughter Dimpy Kalita got grievous injuries on her person. She was immediately shifted to Guwahati Medical College and Hospital (in short GMCH). In his cross- examination, he exhibited and proved several documents including Exhibit-1 and 2 advice slips, Exhibit-3 CT scan report and Exhibit-6 accident information report etc. He was duly cross- examined by the Ld. Counsel of the opposite party No.3. In his cross- examination, he stated that on the date of accident, in fact, he was not travelling in the same vehicle but his family members along with his daughter Dimpy Kalita were travelling. According to him, due to the said accident his daughter got grievous injuries on her person. At the time of accident, she was reading in class-IX and she was aged about 13 years old.

**12.** From the oral evidence of CW1 together with documentary evidence of Exhibit 1 to Exhibit 3 as well as Exhibit 6 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's minor daughter got grievous injury on her 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's minor daughter got injuries on her person as a result of rash and negligent driving of the offending vehicle and she was undergoing treatment at GMCH hospital therefore, she is entitled to get compensation.

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

Though the claimant in his claim petition as well as in his evidence claimed Rs.2,50,000/- but from the exhibited vouchers it appears that he had expended Rs.700/- only. It cannot be disputed that the minor daughter of the claimant having got grievous injuries must spent some money towards her treatment. As the claimant loss the vouchers of his daughter's treatment therefore, a lum sum amount of Rs.10,000/- is awarded to the claimant for the treatment of his daughter. As per the Exhibit-4 issued by GMCH it appears that the minor daughter of the claimant got fracture injury.

We know that fracture is a grievous injury as defined U/S 302 of the IPC. As noted herein before as the minor daughter of the claimant got grievous injuries due to the vehicular accident, therefore, the daughter of the claimant who is aged about 10 years old is entitled to get Rs.5000/- for grievous injury. This Tribunal is also awarded a lum sum amount of Rs.2000/- towards pain and suffering for her simple injury. 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.10,000/-

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Total Compensation= Rs.17,000/-

Thus, the total amount of compensation comes to Rs.17,000/- (Rupees seventeen thousand 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 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. As the opposite party No.3 did not deny the insurance of the offending vehicle and insurance coverage of the said vehicle at the time of accident, therefore, the opposite party No.3 is liable to pay the said amount of compensation to the claimant.

So, this issue is decided in the affirmative.

**(Issue No.2)**


**16.** 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 )**

**17.** In the result, the claim petition is allowed. The total amount of compensation to the tune of Rs.17,000/- (Rupees seventeen thousand 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 claimant within 60 days from today failing which an interest @ 6% per annum be calculated from today on the awarded amount 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 10<sup>th</sup> Day of December '2014 in the open court.

  
Presiding Officer/ Member,

MACT, Nalbari.