

BEFORE THE MEMBER: MOTOR ACCIDENT CLAIMS

TRIBUNAL: NALBARI

MAC Case No.160/2018(Injury)

P R E S E N T :-

Mrs. M. Deb

Member, M.A.C.T,

Nalbari.

Sailen Talukdar

..... Claimant

- Vs -

New India Assurance Co. Ltd.& Another..... Opp. Parties.

Advocates Appeared :-

For the claimant : Smt. M. Bhuyan

For the Opp. No.1 : Sri M. Haque.

Date of Argument : 22.08.2022

Date of Judgment : 13.09.2022

J U D G M E N T A N D O R D E R

1. This instant case has been filed u/s 166 and 140 of the Motor Vehicle Act, 1988 by the claimant namely, Sri Sailen Talukdar, S/O Late Mukuta Ram Talukdar of village Niz Bahjani, P.O. Niz Bahjani,P.S. Nalbari, Dist. Nalbari, Assam for grant of compensation for the injuries sustained by him in a motor accident which took place on 14.03.2018.

2. The facts as unfolded in the claim petition leading to the filing of this application stated as under:-

That on 14.03.2018, when the claimant was waiting for a bus at Nayabasti Turning Point, at that time, the alleged motorcycle bearing registration No. AS-01/BW-7436 which was coming from Subankhata side towards Nalbari ridden by the rider in a rash and negligent manner, knocked down the injured very badly and as a result he sustained severe head injury, chest injury as well as fracture of his left hand and other part of his body. He stated that he has not been cured till date and still he is bed ridden. Immediately after the accident, he was taken to Nalbari Civil Hospital for his treatment. The offending vehicle, owned by O.P. No. 2, Sri Dipankar Das and is duly insured with O.P. No.1 i.e. the New India Assurance Company Ltd. The claimant as such filed claim petition praying for award of Rs.5,00,000/-.

3. On filing of this application, notices were issued to the owner cum rider and insurer of the offending vehicle. The O.P. No. 1 contested the case by filing written statement challenging the claim of the claimant. The O.P. No. 2 neither appeared before this Tribunal nor filed any written statement and hence, the case against the O.P. No. 2 proceeded ex-parte.

4. Upon pleadings of both the parties, the following

issues were framed to decide the fate of the case :-

- (i). Whether Sailen Talukdar was injured in a Road Traffic Accident on 14-03-2018 at about 3.30 p.m at Nayabasti turning point due to rash and negligent riding by the rider of the offending vehicle No. AS-01-BW/7436 (Motorcycle) ?
- (ii). Whether the claimant is entitled to compensation from the opposite parties as claimed for ?
- (iii). To what other relief or reliefs the claimant is entitled to?

5. The claimant, Sri Sailen Talukdar in support of his claim petition examined himself as CW-1. The OP No 1 did not examine any witness in support of its claim so made in the written statement.

6. Heard learned advocates. Gone through the record and relevant documents on record.

DECISION AND REASONS THEREOF

ISSUE NO.(i)

7. To arrive at a decision whether on the relevant date alleged accident occurred and as a result of the said

accident the claimant, Sailen Talukdar sustained grievous injuries and fracture of his body. Let me first of all discuss the evidence on record. In this regard evidence of CW-1 makes the position clear that on 14.03.2018, when the claimant was waiting for a bus at Nayabasti Turning Point, at that time, the offending motorcycle bearing registration No. AS-01/BW-7436 which was coming from Subankhata side towards Nalbari in a rash and negligent manner, knocked down him and as a result he sustained grievous injury as well as fracture of his body. CW-1 stated that immediately after the accident, he was taken to Nalbari Civil Hospital for his treatment, But till date he is not cured. CW-1 further stated that he is a businessman and his monthly income was Rs.10,000/- and at the time of accident, he was 32 years old. As such, he has claimed Rs.5,00,000/- as compensation.

CW 1 during cross examination stated that he does not know about his actual income and he has not submitted his income certificate. He further stated that he does not know the registration number of the offending vehicle.

CW-1 in support of his case proved the accident information Report (Form 54) as Ext. 1, Extract copy as Ext 2., SMK Civil Hospital advice slip as Ext. 3, Investigation report as Ext. 4, Discharge certificate as Ext.5, Blood test report as Ext.6, Virology screening test as Ext.7, Investigation report as Ext.8, Vouchers and cash

memos as Ext.9 to 9(29). It reveals from Ext.1 i.e. the accident information Report that I/C. of Baganpara O.P. mentioned clearly that the accident took place on 14-03-2018 at about 3.30 p.m. at Nayabasti turning point and the vehicle involved in the accident was a Motorcycle bearing regd. No. AS-01BW-7436 i.e the offending vehicle in this case. The name of the owner of the aforesaid vehicle is also mentioned as Sri Dipankar Das in the instant case and the said vehicle was duly insured with New India Assurance Co. Ltd. i.e. OP No.1 vide policy No.1302043115p113044054 valid up to 04.07.2018.

OP No 1, in its written objection stated that no Injury Report, Medical Certificate and other relevant documents are enclosed with the claim petition and the Policy No 1302043115P113044054 is a wrong policy number mentioned in the claim petition by the claimant and the same was not issued in favour of the vehicle No. AS-01-BW/7436 in respect of opposite party no 2.

8. In the light of the above discussion, it is crystal clear that the accident took place on 14-03-2018, resulting grievous injuries of the claimant which was due to rash and negligent riding of the rider of the offending vehicle bearing regd. No. AS-01BW-7436 (Motorcycle) and the same is reflected in the form 54 as well as in the examination in chief on affidavit of the claimant. Though the OP no 1 in its written objection stated that wrong policy number is mentioned in the claim petition, but, the

OP no 1(Insurance Company) has neither examined any witness nor submitted any document to prove the same. In view of the above discussion, the issue is decided in affirmative.

ISSUE NOS (ii) & (iii)

9. Now, it is to be decided in the instant case as to whether the claimant is entitled to get any compensation and as to what amount of compensation the claimant is entitled to.

10. As discussed in issue No. (i), the accident occurred due to rash and negligent riding of the rider of the offending vehicle bearing regd. No. AS-01BW-7436 (Motorcycle) and so the claimant is entitled to receive compensation due to the injuries sustained by him in the said accident. On perusal of the record, I find that the claimant incurred medical expenses of Rs 56,877/-. It reveals that before the accident the claimant was a businessman he earned Rs. 10,000/- per month and his age was 32 years at the time of accident. But, the claimant did not submit any document to prove his income. So, I am of the view that daily income of a businessman, can safely be fixed as Rs 250/- and can be assessed to be the daily income of the claimant at the time of accident and in that way the claimant earned Rs 7,500/-per month.

11. Considering all the documents, certificates and other factors, following amount is granted as compensation :-

Sl No.	Description	Amount
1.	Medical expenses	Rs. 56,877/-
2.	Loss of earning during the period of treatment. (Rs 7,500/- X 2 Months)	Rs. 15,000/-
3.	For causing injury, pain, agony, shock and suffering etc.	Rs 20,000/-
4.	Compensation for loss of amenities and enjoyment for rest of the life	Rs 25,000/-
5.	For inconvenience, discomfort, frustration, etc	Rs 25,000/-
6.	Any other material, losses which may be required in special treatment later.	Rs. 30,000/-
	Total	Rs. 1,71,877/-

12. Accordingly, the claimant is entitled to get total amount of compensation of **Rs 1,71,877/- (Rupees One Lakh Seventy One Thousand Eight Hundred Seventy Seven) only** .

13. Now, the question arose from whom the compensation amount should be recovered for payment to the claimant?

14. In the instant proceeding, it is found from the evidence as well as from the Accident Information Report which is marked as Ext.1 that the offending vehicle at the

time of accident was under the insurance coverage of New India Assurance Co. Ltd. vide policy No. 1302043115p113044054 valid up to 04.07.2018. Therefore, the compensation so awarded by this Tribunal in different heads to the claimant is liable to be paid by the OP No.1 i.e. the New India Assurance Co. Ltd. Hence, both the issues are decided in favour of the claimant.

ORDER

15. In the result, the claim petition is allowed. The total amount of compensation to the tune of **Rs 1,71,877/- (Rupees One Lakh Seventy One Thousand Eight Hundred Seventy Seven) only** so computed on different heads is awarded to the claimant due to the injuries sustained by him on account of traffic accident. The OP No.1 i.e. the New India Assurance Co. Ltd. is directed to pay the said amount of compensation to the claimant within 60 days from today with 6% interest from the date of filing, i.e from 27-06-2018 till the date of realization. Accordingly, this MAC case is disposed of on contest.

16. The company may satisfy the award by depositing the awarded amount into the bank account (IDBI Bank) of the Tribunal having no.1226104000022941 (IDBI) IFSC Code- IBKL0001226 in the name of Presiding Officer/Member M.A.C.T., Nalbari by RTGS or NEFT or the company may satisfy the award by depositing into the bank account of Punjab National Bank having no

1592010019549 IFSC Code-PUNB0159220 in the name of Presiding Officer/Member M.A.C.T., Nalbari by RTGS or NEFT.

17. Let a copy of the judgment and order be furnished to all the concerned parties within 15 days from today as per the provisions of Section 168(2) of the M.V. Act.

Given under my hand and seal of the Tribunal on this the 13th day of September, 2022.

(Mrs. M. Deb)

Presiding Officer/ Member,

MACT, Nalbari

Dictation Taken by

M. Devi

Stenographer.

APPENDIX

Witness for the claimant:-

CW-1 : Sri Saien Talukdar

Witness for the opposite party :

Nil

Documents exhibited by the claimant :

Ext. 1: The accident information Report in Form 54

Ext 2: Extract copy.

Ext. 3: Advice report of SMK Civil Hospital.

Ext. 4: Investigation report.

Ext.5: Discharge certificate.

Ext.6: Blood test report.

Ext.7: Virology screening test.

Ext.8: Investigation report.

Ext.9 to 9(29): Vouchers and Cash memos.

Documents exhibited by the opposite party

Nil

Mrs. M. Deb.
Presiding Officer/ Member,
MACT, Nalbari