

HIGH COURT OF TRIPURA
AGARTALA

MAC APP. No.35/2019

The General Manager
Shriram General Insurance Company Ltd.
of E/8, EPIP, RIICO, Industrial Area,
Sitapura, Jaypur, Rajasthan - 302 022.
(Insurer of Bus bearing Registration No.TR-07-1215).

..... Appellant(s).

Vs.

1. Sri Dipak Das,
S/o Late Jogendra Das,
resident of Bhatta Pukur, Agartala,
P.S. West Agartala, District - West Tripura.
2. Sri Rakesh Dey,
S/o Amar Krishna Dey,
resident of Vill. Bhabanipur, Jatrapur,
P.S. Jatrapur, Sonamura, District - Sepahijala,
(Owner of the vehicle bearing Registration No.TR-07-1215).
3. Sri Subrata Debnath,
S/o Amal Chandra Debnath,
Resident of Vill. Mirjapur, New Palli,
Sarasima Belonia, PS. Belonia, District - South Tripura.
(Owner of Maruti Alto bearing No.TR-08-0607).
4. The General Manager,
National Insurance Company Ltd.,
42 Akhaura Road, Agartala,
P.S West Agartala, District - West Tripura.
(Insurer of Maruti Alto bearing No.TR-08-0607).

..... Respondent(s).

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HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

For Appellant(s) : Mr. R Saha, Advocate.
For Respondent(s) : Mr. S D Choudhury, Advocate,
Mr. S Lodh, Advocate.

Date of hearing & judgment : 10th January, 2020.

Whether fit for reporting :

Yes	No
	✓

J U D G M E N T (O R A L)

This appeal is filed by the insurance company, primarily, questioning its liability to satisfy the award passed by the Motor Accident Claims Tribunal, West Tripura, Agartala.

[2] Brief facts are as under :

Respondent No.1 was a passenger in an Aulto Car when the vehicle collided with an oncoming Bus insured by the appellant-insurance company. He received serious injuries. He, therefore, filed claim petition [T.S.(MAC)No.267/2016] seeking compensation from owners and insurers of both the vehicles involved in the accident. The Claims Tribunal awarded a compensation of Rs.7,74,000/-. Such liability was apportioned equally amongst the drivers of both vehicles and, therefore, the owners and insurers were required to bear 50% burden of such compensation.

[3] In so far as the claimant is concerned, the award is one of composite liability. This is essentially, therefore, an issue between the two insurance companies.

[4] I have heard learned counsel for the parties and perused the documents on record. Claimant in his sworn deposition had stated that on 26th September, 2016 he was travelling in a Maruti Aulto which belonged to his relative, at which time, a bus came from the opposite direction which was being driven at an excessive speed and in a rash manner which caused a head-on collision between the two vehicles. In the cross-examination, the

insurance company had put general questions to this witness regarding the negligence of the driver suggesting that it was the case of negligence of the drivers of both vehicles and not solely that of the Bus. In fact, vaguely insurance company questioned the very involvement of the vehicle in causing the accident.

[5] Significantly, the insurance company did not examine the driver of the bus who would have been the best person to state the manner in which the accident had occurred. On the other side, the claimant who was an eye-witness had given his version of the manner in which the accident had taken place.

[6] The Claims Tribunal found that the drivers of both vehicles were equally responsible for causing the accident and had, therefore, apportioned the liability between the two drivers in equal measure.

[7] I do not find that the Claims Tribunal has committed any error. Firstly, as noted, the claimant an eye-witness had deposed before the Court about the negligence of the driver of the bus. The insurance company chose not to examine the driver of the bus to rebut this evidence. The involvement of the bus was writ large on the face of the record. It was not a case of *hit-and-run* accident. The investigating agency had found both the vehicles on the road long after the accident had taken place. This is what has come out in the charge sheet filed by the police recording the presence of the bus at the site.

[8] No major arguments are advanced for reduction of the compensation. The main issue of liability of the drivers of two vehicles having been decided nothing further remains to be decided in this appeal. Appeal is, therefore, dismissed.

Pending application(s), if any, also stands disposed of.

(**AKIL KURESHI**), CJ

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