

**IN THE MOTOR ACCIDENT CLAIM TRIBUNAL,
LAKHIMPUR, NORTH LAKHIMPUR.**

M.A.C. Case No. 89/2015.

P R E S E N T:

Sri P.C. Kalita, A.J.S.
Member, M.A.C.T.,
Lakhimpur, North Lakhimpur.

P A R T I E S:

1. Sri Pranab Kr. Modak, : Claimant.
-Versus-
1. Mukul Hussain (owner- cum- Driver),
2. Shri Ram General Insurance
Company Ltd. : Opp. Parties.

A P P E A R A N C E:

For the claimant : Mr. T. Das, Ld. Counsel.
For the O.P. No.1 : Mr. R. Islam, Ld. Counsel.
For the O.P. No.2 : Mr. S.I. Hazarika, Ld. Counsel

Evidence recorded on : 08.06.2018, 27.03.2018, 27.03.2018.

Argument heard on : 27.12.2018, 16.02.2019, 18.03.2019, &
21.05.2019.

Judgment delivered on : **21.05.2019.**

J U D G M E N T

1. This is an application under section-166 & 140 of the M.V. Act, filed by the claimant Sri Pranab Kr. Modak praying for compensation on account of injuries sustained by him in a road traffic accident occurred on 13.02.2015.
2. The brief facts, leading to the filing of this claim petition,

is that on 13.02.2015 (time not mentioned), while the claimant Sri Pranab Kr. Modak was coming towards his standing motorcycle, the offending vehicle bearing Regd. No.AS-03F/1222 (709 Bus)), driven by its driver in a rash and negligent manner, knocked down him from the opposite direction. As a result of the accident, the claimant sustained grievous injury on his person. Immediately, he was shifted to the North Lakhimpur Civil Hospital, but considering his critical condition, he was referred to Guwahati Medical College Hospital. He had been undergoing medical treatment at Rahman Hospital Pvt. Ltd., Sixmile, Guwahati as indoor patient for more than two months. In this respect, a case was registered vide N.L. P.S. Case No. 148/2015, u/s-279/338 of IPC against the driver of the offending bus.

3. On receipt of the claim petition, notices were issued to the O.Ps i.e. owner- cum- driver of the offending vehicle and also to the insurance company i.e. the insurer of the vehicle involved.

4. The O.P. No.1 (owner of the offending bus) has contested the case by filing written statement contending, inter-alia, that the alleged accident took place not due to the fault of the driver of the offending bus, but due to fault of the claimant himself. The offending vehicle bearing registration No.AS-03F/1222 (709 Bus) was duly and properly insured with the O.P. No.2 i.e. Shri Ram General Insurance Co. Ltd. vide Policy No.10003/31/14/742130, valid from 07.03.2014 to the mid night of 06.03.2015. Hence, he has prayed to exonerate him from the liability of the compensation.

5. The O.P. No.2- Shri Ram General Insurance Company Ltd. has contested the case by filing a separate written statement contending, inter-alia, that the claim petition is bad for non-joinder of necessary parties. That, the amount claimed by the claimant is too highly excessive, arbitrary and out of all proportions. The O.P. No.3

seeks protection u/s- 149 and 170 of M.V. Act.

6. Upon the pleadings of both sides, the following issues have been framed by my Ld. Predecessor.

7. **ISSUES:**

1. *Whether the accident took place on 13.02.2015 due to rash and negligent driving of the vehicle bearing registration No.AS-03F/1222(709 Bus) causing injury of Sri Pranab Kr. Modak?*

2. *Whether the claimant is entitled to get compensation as prayed for ?*

3. *What other relief/reliefs the parties are entitled to ?*

8. The claimant has adduced evidence of 3(three) witnesses including himself and also exhibited some documents in support of his claim. On the other hand, the O.P. side has examined none in this case.

DISCUSSIONS, DECISIONS & REASONS THEREOF:

9. I have heard arguments of learned counsels of both sides. Also, gone through the evidence and all the relevant materials available on the case record and on the basis of the materials on record, the issues are decided accordingly.

Issue No.1.

10. CW1- Sri Pranab Kr. Modak (claimant), stated that on 13.02.2015 at about 11:30 a.m. while he was sitting on his motorcycle near Soni Mandir and his brother had gone to bring the bottles of drinking water, the offending vehicle bearing Regd. No.AS-03F/1222 (709 Bus)), driven by its driver in a rash and negligent manner from his opposite direction, dashed his motorcycle on the road. As a result of the accident, the claimant sustained grievous injury on his person, including his head. In this respect, a case was registered vide N.L. P.S.

Case No. 148/2015, u/s- 279/338 of IPC against the driver of the offending bus. He has proved the **Accident Information Form as Ext.1.**

During cross, CW1 has denied the defence suggestion that due to his own fault the accident took place and not for the fault of offending bus.

11. CW3, Sri Ananta Modak (younger brother of the claimant), stated that on 13.02.2015 at about 11:30 a.m., he and his elder brother with intent to go to Laluk, while his elder brother was sitting in his standing bike near Soni Mandir and he (CW3) had gone to bring drinking water bottle, at that time the offending vehicle bearing registration No.AS-03F/1222 (709 Bus) driven by its driver in rash and negligent manner, knocked down his brother, causing grievous injuries on the person of his elder brother.

12. From the above evidence on record, it is seen that on the day of occurrence i.e. 13.02.2015 at about 11:30 p.m., while the claimant (CW1) was sitting on his bike near the Soni Mandir, North Lakhimpur town, the accident took place due to rash and negligent driving of the vehicle driven by its driver (O.P. No.1) bearing registration No.AS.03-F/1222 (709 Bus) for which the claimant Pranab Kr. Modal sustained injuries on his person. CW3, who claims to be an eye witness of the alleged accident, has fully supported the said version of CW-1 by saying that he saw the offending Bus coming at a high speed and dashing the CW1.

So, this issue is decided in favour of the claimant.

ISSUE No.2 & 3.

13. Sri Pranab Kr. Modak (claimant) in his claim petition and in his evidence as CW1, stated that immediately after the accident, he was taken to North Lakhimpur Civil Hospital with the help of local

people, from where he was referred to GMCH, Guwahati, but afterwards, he was admitted at Rahman Hospital Pvt. Ltd. Guwahati, Sixmile, where he was undergoing medical treatment for about 1½ months. Thus, he has incurred about Rs.3,00,000/- in total for his medical treatment, though he could not submit all of the documents in respect of his such treatment before the Court.

CW-1 has exhibited the documents i.e. Ext.2 to Ext.111 in support of his claim, out of which Ext.2 and 3 are discharge certificate and summary respectively; Ext.8 to 34 and Ext.67, 70, 71, 72 & 73 are prescriptions; Ext.4 to 7, Ext.35 to 69 and Ext.91 to 110 are bills/ vouchers/cash memos and Ext.74 to 90 and Ext.111 are medical reports, including the CT Scan of brain, X- ray plate of chest etc.

He (CW1) also stated that at the time of accident he was 29 years old and he was the proprietor of a Pharmacy under the name and style- Maa Medical Hall, situated at Panigaon, from where he earned about Rs.14,000/- to Rs.15,000/- per month.

14. As per the Ext.2- Discharge certificate, the claimant was admitted at North Lakhimpur Civil Hospital on 13.02.2015 and on the same day, he was discharged from that hospital. As per the Ext.3- Discharge Summery, the claimant was admitted at Rahman Hospital Pvt. Ltd., Guwahati on 14.02.2015 and on 23.02.2015 he was discharged from that hospital.

15. CW2, Sri Jitu Kumar Das, a staff of Maa Medical Hall (Pharmacy) belonging to the claimant, stated that the claimant Pranab Kr. Modak earned about Rs.15,000/- to Rs.20,000/- per month from his Pharmacy business.

16. Upon perusal of the exhibited medical vouchers / cash memos/ bills, it is found that the claimant had to incur an amount of Rs.1,44,072/-, in total, as his medical expenses.

17. Thus, having considered the facts and circumstances of the case and the nature of injuries sustained by the claimant and the expenditure incurred there for, just and reasonable compensation to which the claimant is entitled to is assessed as under :-

1	Medical expenses	=	Rs. 1,44,072.00
2	Pain, shock and sufferings	=	Rs. 1,00,000.00
3	Incidental expenses	=	Rs. 50,000.00
4	Loss of earning (during the period of treatment)	=	Rs. 20,000.00
	<u>Total</u>	=	Rs. 3,14,072.00

Thus, the claimant is entitled to get Rs.3,14,072/- in total, which is rounded as Rs.3,14,000/- (Rupees three laces fourteen thousand) only as compensation to be paid by the O.P. No.2, Insurance company.

18. The offending vehicles bearing Registration No.AS.03-F/1222 (709 Bus) insured with Opp. Party No.2, Shri Ram General Insurance Co. Ltd. was not in dispute. As such, the insurer of the offending vehicle i.e. the O.P. No.2 is liable to pay the compensation to the claimant.

ORDER:

19. In the result, the O.P. No.2 is directed to pay the amount of Rs.3,14,000/- (Rupees three laces fourteen thousand) only with interest thereon @ 6% per annum from the date of filing of the claim petition i.e. 22.09.2015 till its realization, as compensation to the claimant. The O.P. No.2 is directed to deposit the awarded amount before the Tribunal for making payment within one month from the date of receipt of this order.

20. Furnish free copies of Judgment to the parties concerned within 15 days from today, as per provision of Sec.168(2) of M.V. Act.

21. Both the parties will bear their respective costs.

22. The case is disposed of accordingly, on contest.

Given under my hand and seal of this Tribunal on this 21st
day of May, 2019.

(P.C. Kalita)
Member, M.A.C.T
Lakhimpur, N.L.

Dictated & corrected by me:

(P.C. Kalita)
Member, M.A.C.T,
Lakhimpur, N.L.

Transcribed & typed by me:-
Sri D. Chetia, Steno.

APPENDIX

Claimant witnesses:

CW1- Sri Pranab Kr. Modak
CW2, Sri Jitu Kumar Das
CW3, Sri Ananta Modak

Claimant's Exhibits:

Ext-1 : Form 54.
Ext-2 to 111- Bills/ cash memos/ vouchers/
Prescriptions/Medical Certificate etc.

O.P witness :

Nil.

O.P. Exhibits:

Nil.

(P.C. Kalita)
Member, M.A.C.T,
Lakhimpur, N.L.