

CAUSE TITLE**M.A.C.T. CASE NO.25/2018.**

1) Smt Sumitra Chetry @ Urmila Devi
... Claimant.

-versus-

1) Smt Yabita Padung.
(Owner of vehicle bearing registration
No.AR.01.C-4791). ... O.P. No.1.

2) Sri Raju Chetry.
(Driver of vehicle bearing registration
No.AR.01.C-4791). ... O.P. No.2.

3) The Oriental Insurance Co. Ltd.
(Insurer of vehicle bearing registration
No.AR.01.C-4791). ... O.P. No.3.

Advocates :

For the Claimant. : Sri D. Deori and Sri D.
Mahanta, Advocates.

For the Opp. Party No.1. : Sri Ganesh Roy, Advocate.

For the Opp. Party No.2. : Sri D. Chetry, Advocate.

For the Opp. Party No.3. : Sri B. Ghosh, Advocate.

**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL :
LAKHIMPUR : AT NORTH LAKHIMPUR.**

Present : Smt S.P. Khaund, (MA Economics, LLB),
Member, M.A.C.T.
Lakhimpur, North Lakhimpur.

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Date of Judgment : 27.07.2021.

J U D G M E N T

1) The claimant in this case is Smt Sumitra Chetry
@ Urmila Chetry. Her case, in brief, is that on
17.06.2009 at about 6.30 am, while she was

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travelling in the vehicle bearing registration No.AR.01.C-4791 from Biswanath Chariali towards Jonai, she sustained injuries as a result of the accident due to the rash and negligent act of the driver of the vehicle. The accident occurred at Deotola under Narayanpur P.S. The injured/claimant was shifted to North Lakhimpur Civil Hospital and she underwent treatment as indoor patient upto 30.06.2009. She was thereafter taken to Medicare Diagnostic and Hospital at Dibrugarh for proper treatment, and she underwent treatment from 04.07.2009 upto 21.07.2009. Dr. Premananda Das provided treatment to the claimant. As a result of the accident, the claimant unfortunately became permanently disabled. A Narayanpur PS Case No.84/2009 u/s 379/ 338 IPC was registered against the driver of the vehicle of Tata Sumo make bearing registration No.AR.01.C-4791. As a healthy person, the claimant was earning Rs.9,000/- per month. As she has been rendered permanently disabled, she has claimed compensation of Rs.10 Lacs.

2) The owner of the vehicle, Yabuti Padung, the driver, Sri Raju Chetry and the insurer of the vehicle were arrayed as OP Nos.1, 2 and 3 respectively.

3) The owner, driver and insurer of the vehicle of Tata Sumo make bearing registration No.AR.01.C-4791, contested the proceeding and filed written

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statements. The driver has denied that he drove the vehicle with excessive speed and in rash and negligent manner. The owner and the driver have both averred that the driver was carrying valid Driving License at the time of the accident. The insurer as OP No.3 has, however, questioned the validity of the Driving License of the driver (OP No.2). The owner has also denied that the driver was driving the vehicle in a rash and negligent manner at the time of the accident. The owner has prayed for exoneration as the vehicle bearing registration No.AR.01.C-4791 was duly insured vide Policy No.322800/ 31/ 2009/ 1960 and was valid from 22.10.2008 upto 21.10.2009. This implies that the policy was valid at the time of the accident. The OP No.3 i.e., the insurer has averred that in case of any violation of the terms and conditions of the policy, the insurer will decline to pay the compensation.

4) Several opportunities were afforded to the claimant to contest the proceeding, but the claimant remained absent without steps. The learned counsel for the claimant deliberately did not take any step despite being aware of the pending proceeding.

5) On the back drop of the rival contentions, the following Issues were framed.

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ISSUES

i) Whether the Claimant Smt Sumitra Chetry @ Urmila Devi sustained injuries in the alleged Motor vehicular accident on dated 17/06/2019 involving vehicle bearing registration No.AR-01-C-4791 (Tata Sumo), and whether the said accident had taken place due to rash and negligent driving of the aforesaid offending vehicle?

ii) Whether the Claimant side is entitled to any compensation, and if yes, to what extent and by whom amongst the Opposite Parties, the said compensation amount will be payable?

ISSUE Nos.1 and 2. :

6) I would like to reiterate that ample of opportunities were accorded to the claimant who failed to adduce evidence to substantiate her claim. The Opposite Parties have vigorously denied that the driver is responsible for the accident. Without proper evidence it is not possible for this Tribunal to decide this case. I would like to rely on the decision of the Hon'ble Gauhati High Court in *Jyoti Rani Debnath (Das) vs Jyotsna Debnath, in 2008 (Suppl) GLT 161*, wherein it has been observed that "**Law is well settled by a catena of decisions that an application for claim for compensation cannot be dismissed on account of default. If the claimant does**

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not appear or fails to take steps or does not come forward to prove his claim, learned Tribunal has the power to adjudicate the claim on the available materials on record on merit and accordingly, he may pass award to the effect that the claimant is not entitled to get any compensation as the claimant could not prove his case. Even in case of repeated adjournment and non-cooperation by the claimant, the claim petition could be adjudicated on merits even in absence of a claimant by granting award of compensation that may be justifiable on the available documents”.

7) In view of my foregoing discussions, it is thereby held that, the Claimant failed to substantiate her pleadings. This case is, thereby, dismissed due to lack of evidence. She did not adduce any evidence. The documents submitted by the claimant does not prove her case.

Judgment is signed, sealed and delivered in the open Court on the 27th day of July, 2021.

(S.P. Khaund)
Member, M.A.C.T.
Lakhimpur, North Lakhimpur.

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Certified that the Judgment is typed to my dictation and corrected by me and each page bears my signature.

(S.P. Khaund)
Member, M.A.C.T.
Lakhimpur, North Lakhimpur.

Transcribed and typed by :
Sri Satyabrata Kshattri, Stenographer.