

IN THE COURT OF THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL
SONITPUR AT TEZPUR

Present : Smti. M. Nandi.,
Member,
Motor Accident Claims Tribunal,
Sonitpur, Tezpur

MAC Case No.49 of 2019(I)

1. Md. Nur Islam,
Son of Md. Mamruj Ali,
R/O vill. Bagari Ati,
P.S. Tezpur,
Dist. Sonitpur, Assam.....Claimant.

-Versus-

1. Md. Abu Bakkar Siddique,
Son of Maniruddin,
Vill. Lungia,
P.S. Dhing,
Dist. Marigaon, Assam,
(Owner of the vehicle No.AS-12E/2900(Tractor)

2. Md. Warisul Haque,
Son of Late Alimuddin,
R/O Vill. Halicharabori, ,
P.S. Marigaon,
Dist. Marigaon, Assam,
(Driver of the vehicle No. AS-12E/2900(Tractor.....Opp. Parties.

ADVOCATES APPEARED

For the claimant :- Smti. R. Khatun, Advocate.

For the O.P. No. 1& 2 :- A. Sekinder Ali, Advocate,

Date of Argument :-**10-02-2021.**

Date of Judgment :-**12-02-2021.**

J U D G M E N T

This is an application u/s 166 of the M.V. Act. 1988 filed by the claimant Md. Nur Islam, praying for grant of compensation on account of injuries sustained by him, in a motor vehicle accident.

1. The brief fact of the case is that on 01-08-2018 at about 5-30 A.M. when the claimant was proceeding towards his shop at village Bagari Ati on foot, at that time one vehicle bearing No.AS-12E/2900(Tractor) coming in a rash and negligent manner from the opposite direction hit the claimant. As a result the claimant sustained grievous injuries on his person including fracture of ribs. Immediately the claimant was admitted to Mission Hospital, Tezpur wherein he was treated as an indoor patient.

2. After the accident, one was registered vide Tezpur P.S. case No. 1592/2017 u/s- 279/338 IPC. At the relevant time of accident, the vehicle was not duly insured.

3. Against the claim petition O.P. No. 1 and 2 i.e. owner/driver of the alleged offending vehicle bearing No. AS-12E/2900(Tractor) have submitted written statement and it is stated that the vehicle in question bearing No. AS-12E/2900(Tractor) is not in the name of O.P. NO.1 but one Manohar Kujur is the registered owner of the said vehicle. The O.P. NO. 2 i.e. driver also stated that he did not know the owner of the vehicle Manohar Kujur and he never drove the said vehicle and prayed to exonerate O.P. 1 and 2 from the liability of paying any compensation to the claimant.

4. On the pleadings aforesaid, the following issues were framed –

I. Whether the accident took place on 01-08-2017 at about 5-30 A.M. due to rash and negligent driving by the driver of the vehicle bearing No. AS-12E/2900(Tractor) and whether claimant Md. Nur Islam has sustained injury due to the alleged accident?

II. Whether the claimant is entitled to get any compensation as prayed for and if so, from whom and to what extent?

5. I have heard argument advanced by Learned Counsel of both sides. I have also perused the documents available in the record.

Issue No. 1 and 2

6. The claimant was examined in the case as CW-1 who deposed in his evidence that he has filed this claim case on account of injuries sustained by him in a motor vehicle accident which occurred on 01-08-2017 at about 5-30 A.M due

to rash and negligent driving by the driver of a Tractor bearing No. AS-12E/2900. As a result he sustained grievous injuries on his person.

7. CW-1 has exhibited the following documents-

Ext. 1 Form 54 (accident information report).

Ext. 2 to 6 are documents relating to criminal case.

Ext. 7 to 11(iv) are medical documents/cash memo/bills etc.

8. Though CW-1 was present to face cross-examination but O.P. 1 and 2 remained absent to cross-examine the witness.

9. Ext. 1 is the accident information report which reveals that an accident occurred on 01-08-2017 at about 5-30 A.M. The place of accident is not mentioned in Ext.1. and Nur Islam has sustained injury due to the alleged accident. The vehicle bearing No. AS-12E/2900(Tata Magic) was shown to be the offending vehicle. Ext. 2 is the FIR lodged by one Md. Nur Kalam alleging involvement of a tractor without registration number causing injury to his brother Nur Islam due to rash and negligent driving by the driver of the said vehicle. On the basis of the ejahar, one case was registered vide Tezpur P.S. case No.1592/2017 u/279/338 IPC. Ext. 3 is the charge sheet submitted against the driver of the vehicle bearing No.AS-02AC/5273(Tractor) Md. Warisul Haque u/s- 279/338 IPC. Ext. 5 is the MVI report of the vehicle bearing No. AS-02AC/5273(Tractor) having no damages. Ext. 6 is the seizure list of seizing the vehicle bearing NO. AS-02AC/5273(Tractor).

10. It is seen that the claimant has alleged that the vehicle bearing No. AS-12E/2900(Tractor) was involved in the case by which he has sustained injury but Form 54 shows that the vehicle bearing No. AS-12E/2900 is a Tata Magic which was involved in the case. The other documents submitted by the claimant are MVI report and seizure list which shows that the vehicle bearing No. AS-02AC/5273(Tractor) was involved in connection with Tezpur P.S. case No. 1592/2017 and the owner is Abubakkar Siddique and driver of the tractor is Warisul Haque. It appears that the vehicle bearing No. AS-12E/2900 is not a tractor but a TATA Magic vehicle.

11. As per Ejahar the tractor was involved in the accident is a New vehicle at the time of accident. No number plate was affixed in the said tractor. The accident occurred on 01-08-2017 and the Ejahar was lodged on 09-08-2017. The vehicle

bearing No.AS-02AC/5271(Tractor) was seized on 09-08-2017 and it was inspected by the Motor Vehicle Inspector on 19-09-2017 i.e. after more than one month of the accident. The Ejahar was lodged on 09-08-2017. It is mentioned in the ejahar that the vehicle involved in the accident was one new tractor without number plate. On the same day i.e. on 09-08-2017 one tractor was seized having registration No. AS-02AC/5273(Tractor). It transpires that the vehicle bearing No.AS-12E/2900(TATA Magic) or the vehicle bearing No.AS-02AC/5273(Tractor) are not involved in the accident in connection with the injuries sustained by the claimant.

O R D E R

In the result, the case is not maintainable and the instant claim petition stands dismissed being devoid of any merit. There is no order as to cost.

Given under my hand and seal on this 12th day of February, 2021.

Dictated and corrected by me

Member,
Motor Accident Claims Tribunal,
Sonitpur, Tezpur.

(M. Nandi.)
Member,
Motor Accident Claims Tribunal,
Sonitpur, Tezpur.

ANNEXURE

1. Witness of the Claimant:

(i) Nur Islam.

2. Witness of the Defence:

None.

3. Claimant's Exhibits:

Ext. 1 Form 54 (accident information report).

Ext. 2 to 6 are documents relating to criminal case.

Ext. 7 to 11(iv) are medical documents/cash memo/bills etc.

4. Exhibits of the defence

NIL.

(M. Nandi.)
Member
MACT, Sonitpur, Tezpur