

2. The facts of the above mentioned case, may, in brief, be stated as follows:

On 04.06.2006, at about 4.45 PM, the claimant along with other passengers of the Mahila Samettee was returning from Dhekiajuli and proceeding towards Tezpur side after participating Welcome Party of Speaker, Assam at Dhekiajuli. On the way at NH 52 near Ghatowa, the vehicle met with an accident and the vehicle capsized as a result of the accident. The claimant and the other member sustained grievous injuries on their persons and the injured persons were immediately shifted to KCH, Tezpur for treatment and after that was shifted to GMCH, at Guwahati for better treatment. In the accident, one woman namely Dhaneswari Devi died on the spot and one Alaka Devi had succumbed to her injuries while she was shifted to the GMCH. From Kanaklata Civil Hospital she was discharged on 05.06.2006, and she was admitted and discharged on 12.06.06 from GMCH where she went for better treatment, and still continuing her treatment. She sustained grievous multiple injuries all over the body, head injury with three spot at brain, low back injury, fracture at left hand ankle joint, cut lower lip etc. She spent amount for her treatment at Tezpur and Guwahati. The accident took place due to the rash and negligent driving of the offending vehicle bearing Registration No. AS-12A-9124(407 Mini Truck).

It is also mentioned in the claim petition that the claimant is aged about 45 years and she earned more than Rs.6000/ per

month from doing knitting, cutting and cultivation. Hence, under the above facts and circumstances, the claimant as claimed in the claim petition claiming an amount of Rs. 5,80,000/- as compensation from the Opposite Parties.

3. The O.P. No.1 was the owner of the vehicle bearing Registration No. AS-12A/9124 (Mini Truck) and the OP No 2 was the driver of the vehicle was insured with O.P. No. 3, The United India Insurance Co. Ltd.

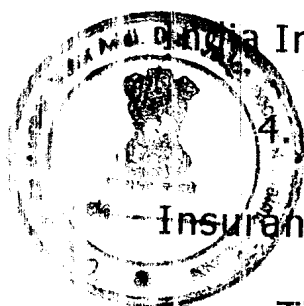
4. In the written statement filed by O.P. No. 3, United India Insurance Company Ltd. has denied the maintainability of the case. The United India Insurance Co Ltd has stated that the accident was not caused due to the negligence of the offending vehicle, so the Insurance Co. is not liable to pay any compensation. Hence, they have prayed to dismiss the claim against them.

5. Upon the pleadings of the parties, the following issues were framed.

ISSUES

1. Whether the alleged accident took place due to rash and negligent driving by the driver of the vehicle No. AS 12A-9124 (407 Mini Truck)?

2. Whether the claimant is/ are entitled to any compensation and if yes, to what will be the quantum of compensation and by which of the respondents this amount shall be paid?



15714
Member
National Consumer Disputes Redressal Commission
Mumbai

6. In course of hearing the claimant has examined two witnesses including herself. The OPs examined none.

7. I have heard argument at length advanced by the learned counsel of both sides. Perused the materials available on the record. I have given my findings issue-wise as follows:



DISCUSSION DECISION & REASONS THEREOF

ISSUE NO. 1

8. This issue relates to the fact that as to whether the accident took place due to rash and negligent driving of the driver of the offending vehicle No. AS 12A-9124 (407 Mini Truck).

The evidence of the claimant also her supported witnesses have adduced that on that day of the accident, on 04.06.2006, at about 4.45 claimant along with other passengers of the Mahila Samettee was returning from Dhekiajuli and proceeding towards Tezpur side after participating Welcome Party of Speaker, Assam at

Dhekiajuli . On the way at NH 52 near Ghatowa, the vehicle met ~~with~~ an accident and the vehicle capsized as a result of the accident. The claimant and the other member sustained grievous

injuries on their persons and the injured persons were immediately shifted to KCH, Tezpur for treatment and after that

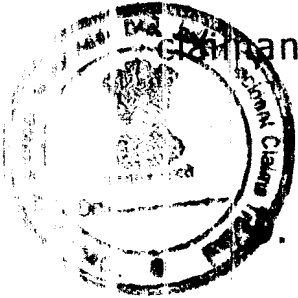
was shifted to GMCH, at Guwahati for better treatment. In the accident, one woman namely Dhaneswari Devi died on the spot

and one Alaka Devi had succumbed to her injuries while she was shifted to the GMCH. From Kanaklata Civil Hospital she was

11/11/14
Member
Assam Motor Vehicle Accident Tribunal
Tezpur

Registration No. AS-12A-9124(407 Mini Truck).The Insurance Company has not cross-examined the claimant, so the evidence of the claimant remains un-rebutted.

From the evidence of the claimant and her supported witnesses, it is also proved that the accident took place due to rash and negligent driving of the driver of the offending vehicle. So, this issue is decided in favour of the claimant and the Insurance Company is liable to pay the compensation to the claimant.



ISSUE NO 2

. Whether the claimant is entitled to any compensation and if yes, to what will be the quantum of compensation and by which of the respondents this amount shall be paid.

Now as to the compensation which the claimant is entitled the treatment which the claimant had to undergo as a result of the accident is required to be analyzed.

After the accident, the claimant was immediately shifted to Tezpur Kanak Lata Civil Hospital and she was discharged on 05.06.2006 and referred to GMCH and admitted there and discharged there on 12.06.06 for better treatment and still continuing treatment from her house. In the said accident, she sustained grievous multiple injuries all over the body, head injury, low back injury, fracture at left hand ankle joint, cut a lower lip etc. She spent for her treatment. In view of the discussions above, I find that the claimant has been able to prove the case, and she

is entitled to compensation for the injuries sustained by her as a result of the accident.

Now, remains the amount of compensation to be awarded and which of the OP is/are liable for the payment of the same.

On the quantum of the compensation, the claimant has claimed on amount of Rs. 5,80,000/-. The claimant has submitted documents of cash memos and vouchers as Ext. 13(1) to Ext 13(33) and also submitted bus tickets Ext 12(1) to Ext 12(16), and it is found that an amount of 15,552.87/. She has also submitted that her income certificate 6,000/ per month which is exhibited as Ext 14. Furthermore, her age is 45 years. So, considering her salary, age and medical expenses and that she had sustained injuries in her head and all over the body, the following amount is calculated. So, considering all aspects and considering all documents evidence on record as well as for the discussions made above I am of the opinion that the following amount awarded to the claimant will meet the ends of justice.

1. Medical expenditure during treatment as per vouchers	15,552.87/- Only
2. Physical and mental pain	1,00,000/- Only
3. Future Medical and Miscellaneous Expenses	50,000/-Only
4. <u>Loss of amenities</u>	<u>50,000/-/Only</u>

Total: 2,15,552.87/- Only

Rs: 2,16,000/- (rounded up)

10. Accordingly, the claimant is entitled to total amount compensation of Rs. **2,16,000/-** only with an interest at the rate of

6% per annum and the amount will be paid by the Insurance Company within one month from the date of filing judgment.

11. Accordingly, the Opp. Party United India Insurance Co. Ltd is directed to pay the above amount the compensation to the claimant.

ORDER

12. The claim petition is allowed awarding an amount of **Rs. 2,16,000/-** only to the claimant with an interest at the rate of 6% per annum from the date of the filing of the claim petition till realization and the amount will be paid by the Insurance Company within one month from the date of the judgment.

13. The O.P. No. 3 i.e the United India Insurance Company. Ltd is hereby directed to pay the compensation amount of **Rs: 2,16,000/-** only to the claimant with an interest at the rate of 6% per annum from the date of the filing of the claim petition till realization and the amount will be paid by the Insurance Company within one month from the date of the judgment.

14. Send a copy of this judgment to the OP No. 3 i.e. the United India Insurance Company Ltd free of cost.

15. Given under my hand and seal of this Court on this **15th** day of May, 2014 at Tezpur.

M Sharma
15/5/14

(Smti.M.R.Sharma)
Member, M.A.C.T (Addl. Dist. Judge)
Sonitpur, Tezpur

Member
Motor Accident Claims Tribunal
Additional District Judge
Sonitpur, Tezpur