

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

**PRESENT:**                    **Smti. M.R. Sharma**  
                                      **Member, Motor Accident Claims Tribunal**  
                                      **Addl. District Judge**

**JUDGMENT IN MAC CASE NO. 221 OF 2007**

**Md. Mujibur Rahman**  
**S/O: Md. Mainul Islam**  
**Vill: Rupkuria Pochim, Solmara**  
**P.O: Goraimari PS: Tezpur**  
**Dist: Sonitpur, Assam ..... Claimant**

**Versus**

1. Smti. Minu Saikia  
[Owner of the vehicle No. AMD 2986(Truck)]
2. Md. Abdul Salam  
[Driver of the vehicle No. AMD 2986(Truck)]
3. United India Insurance Co. Ltd.  
[Insurer of the vehicle No. AMD 2986(Truck)]

**ADVOCATES WHO APPEARED**

For the claimant	: K. Hussain, K.K. Hazarika Advocate
For the OP No 1	: Sri S.Das, Sri A.Das, Advocates
For the O.P.3	: Sri K.P. Singh, Sri S.K. Singh Advocates
<b>Date of argument</b>	<b>: 17.01.14</b>
<b>Date of judgment</b>	<b>: 10.04.14</b>

**J U D G M E N T**

1. This claim petition has been submitted under Section 166 of M.V. Act, 1988 by the claimant Md. Mujibur Rahman claiming compensation on the account of injuries sustained by him in a Motor Vehicle Accident on 16.04.2007.

*M.R. Sharma*  
17/04/14  
Member  
Motor Accident Claims Tribunal  
Addl. District Judge  
Sonitpur, Tezpur

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

On 16.04.2007, at about 4.05 PM, the claimant was proceeding from Kochubil towards Dhekiajuli on the offending vehicle being registered No. AMD-2986 as its labour/cleaner. The truck was being driven by the driver in a very high speed and in a rash and negligent manner. When the truck reached a place called 'Keherukhunda Turning', the driver of the said vehicle lost control over the truck and capsized on its left side of the road.

Due to the accident the claimant sustained grievous injury all over his body, specially on the chest and fracture on the left wrist join and arm. The claimant was treated as an indoor patient at Tezpur Civil Hospital from the date of accident 16-04-07 till 18-04-07 and as indoor patient and the claimant is under the treatment as an out-door patient for which he claimed an adequate amount of compensation of Rs 50,000/- from the Opposite Parties.

3. The O.P. No.1 was the owner of the offending vehicle bearing Registration No. AMD 2986 (Truck), the OP No 2 was the driver of the offending vehicle and the O.P. No. 3, the United India Insurance Co. Ltd.

4. The owner O.P. No. 1 has filed a written statement denying the cause of action and the maintainability of the case. It is also stated that the claim petition is bad for mis-joinder and non-joinder of necessary parties. It is also stated that the claim petition is too vague. The amount claimed by the claimant is excessive, fanciful, imaginary, exorbitant, speculative. However, the answering O.Ps have submitted that as the vehicle was duly

insured with the United India Insurance Co. Ltd. and the policy document was valid at the time of the accident. Therefore, the O.P. No. 1 has prayed for dismissal of the claim petition.

5. In the written statement filed by O.P. No. 3, United India Insurance Co. Ltd, it is averred that this O.P. has denied the maintainability of the case. The OP stated that the claimant is not entitled to any claim as the claimant is to prove that he was a workman of the owner. The OP also stated that there was no negligence of the driver of the truck. The OP also stated that they have not received any copy of the record or report of the alleged accident nor any information regarding the alleged accident from the driver or owner of the vehicle bearing registration No. AMD. 2986 (truck). The OP has no personal knowledge about the expenditure involved in his treatment. So, the O.P. No. 3 has prayed to dismiss the claim petition with cost.

6. 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. AMD 2986(Truck)?
2. Whether the claimant is/are entitled to compensation, and if yes, what will be the quantum of compensation and by which of the respondents this amount shall be paid?

1/10/2014  
 1. P. V. V. V.  
 Member  
 Accident Claims Tribunal  
 Madurai District  
 Bangalore, In-201

7. The learned counsels for the OP No 1 and OP No 3 have submitted their written argument. I have also gone through the evidence and other materials on record.

A discussion on materials on record is required to come to a conclusion on the claim in this case.

### **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 vehicle No. AMD 2986(Truck).

The evidence of the claimant that on 16.04.2007, at about 4.05 PM, the claimant was proceeding from Kochubil towards Dhekiajuli on the offending vehicle being registered No. AMD-2986 as its labour/cleaner. The truck was being driven by the driver in a very high speed and in a rash and negligent manner. When the truck reached a place called 'Keherukhunda Turning', the driver of the said vehicle lost control over the truck and capsized on its left side of the road.

Due to the accident the claimant sustained grievous injury all over his body, specially on the chest and fracture on the left wrist join and arm. The accident took place due to the fault of the driver of the offending truck.

In the cross-examination, he stated that he worked as a labourer of loading and unloading goods. He also stated that the vehicle capsized at Keherukhunda Turning due to overloaded goods, he got fracture in his left

*Handwritten signature and stamp:*  
 A. S. Das  
 District Judge  
 Dhekiajuli  
 16/04/2007

hand. He also stated that the owner of the vehicle has not given any certificate of his works.

CW 2 Sri Shawan Dhanuwar has corroborated the statement of CW 1 by saying that the accident occurred due to lapse failure and default of the driver. The claimant has exhibited the Accident Information Report as Ext. 1. According to the Accident Information Report, the offending vehicle is the foresaid truck. Hence, from the oral and documentary evidence adduced by the claimant, it can be easily held that the accident took place due to the rash and negligent driving of the driver of vehicle No. AMD - 2986(truck).

In the cross-examination of DW 1, the Senior Assistant of the United India Insurance Company Ltd. dealing with Motor Accident Cases, and he was cross-examined by the learned counsel for the claimant, and he stated that he know about the policy of the Insurance Company of this case. He also had given the certified copy of the Insurance Policy, he has also stated that it covers third party policy but it does not covered own damage claim. In this case, the claimant is not the insurer but he was workman of the owner and as the insurer had stated as DW 1 that it also covers workman, so the claimant is entitled to get compensation as the Insurance could not proved that at that time he was not in the vehicle and that the driver had not given in a rash and negligent manner. Hence, the claimant is entitled to compensation.

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

**ISSUE NO. 2**

9. In view of the above discussion made in Issue No. 1, the claimant is entitled to get compensation. So, this issue is not discussed in details. Under the provisions of Motor Vehicle Act and Rules, when the claimant got injuries due to rash and negligent driving of the vehicle which was duly insured at the time of the accident and at that time the driver of the offending vehicle also had a valid driving licence, the claimant is entitled to get compensation.

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

So, now we have to see what will be the just and reasonable compensation. The claimant has exhibited the prescriptions and other medical documents as Ext 2 to Ext 6(ii), it is found that an amount of Rs.2031.29/- was incurred by the claimant for medical treatment of the injured.

Therefore, the just and reasonable compensation will be as follows:-

- |  |              |
|--|--------------|
| 1. Medical Expenditure incurred in his treatment, including medicine | 2031/- Only  |
| 2. Pain and Sufferings   | 20,000/-Only |

.....  
**Rs. 22,031 /- Only**

10. Accordingly, the claimant is entitled to total amount of compensation of **Rs. 22,031/- (Rs Twenty Two Thousand and Thirty One) only** with an interest at the rate of 9% per annum with effect from the date filing of the claim petition till realization.

**ORDER**

11. An amount of **Rs. 22,031/- (Rs Twenty Two Thousand and Thirty One) only** is awarded as compensation in favour of the

claimant with an interest at the rate of 9% per annum from the date of filing of the claim petition till realization.

12. The O.P. No. 3 i.e the United India Insurance Co. Ltd is hereby directed to pay the compensation amount of **Rs. 22,031/- (Rs Twenty Two Thousand and Thirty One) only** to the claimant with an interest at the rate of 9% per annum from the date of the filing of the claim petition till realization.

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

14. Given under my hand and seal of this Court on this **10<sup>th</sup> day of April, 2014** at Tezpur.

*M Sharma*  
10/4/14  
( Smti. M.R. Sharma)  
Member of MACT (Addl. District Judge)  
Tezpur, Sonitpur  
Motor Accident Claims Tribunal  
Additional District Judge  
Sonitpur, Tezpur