

**BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL : : : :
TINSUKIA : : : : ASSAM**

District: Tinsukia

Present: **Sri P.J. Saikia,**
Member,
Motor Accident Claims Tribunal,
Tinsukia

M.A.C.T. Case No. 10 of 2017

Smti Mina Devi Chetry @ Mina Kumari Chetry,
W/o Sri Gyandeep Chetry,
R/o Hahkhati Nepali Gaon,
P.O. Hahkhati, P.S. Dholla,
District: Tinsukia (Assam).....Claimant

- Versus -

1. The New India Assurance Co. Ltd.,
Opp. Police Reserve, above UBI,
A.T. Road, Guwahati,
Dist: Kamrup (Assam)
(Insurer of the Super Bus No.AS-01-GC-0266)
2. M/s Network Travels,
S/D/W/ of MA-17 Paltan Bazar,
G.S. Road, Guwahati,
Dist: Kamrup (Assam)
(Owner of the Super Bus No.AS-01-GC-0266)
3. Sri Ram Balak Giri,
S/o J.N. Giri,
C/o M/s. Network Travels,
S/D/W/ of MA-17 Paltan Bazar,
G.S. Road, Guwahati,
Dist: Kamrup (Assam)
(Driver of the Super Bus No.AS-01-GC-0266).....Opposite Parties

Appearance:

Sri G.B. Chetry,

Advocate.....For the Claimant

Smti C. Dey,

Advocate.....For the O.P. No.1

Sri B. Prasad,

Advocate.....For the O.P. Nos.2 & 3

Date of Argument: 05.07.2019

Date of Judgment: 26.07.2019

J U D G M E N T

This is an application u/s.166 of the Motor Vehicles Act filed by the claimant Mina Devi Chetry, claiming compensation amounting to Rs.2,59,000/- for sustaining injuries in a motor vehicle accident.

2. The brief fact of the case, is that on 11.3.2016 at about 4 P.M., the claimant was proceeding from Dholla Bazar to Guwahati in a night super bus, bearing registration No.AS-01-GC-0266 to meet her younger daughter at Beltola, Guwahati . On the next day, on 12.3.16 at about 4.30 A.M., when the said night super bus reached Amlighat under Jagiroad P.S., the bus capsized on the road due to rash and negligent driving by the driver of the bus and as a result, all the passengers of the bus sustained injuries. The claimant sustained severe injuries on her person and she was immediately taken to Model Hospital, Nakhola, Jagiroad and considering the seriousness of her injuries, the doctors referred her to GMCH and accordingly, she was admitted there. There, the doctors operated and fitted steel plate in her left hand and she remained there for about one and half months. After that, she was taken to Patna and admitted at North East Orthopaedics & Trauma Hospital, Patna on 26.4.16 and there another operation was conducted by the doctors and she was discharged from that hospital on 9.5.2016. Although she was released from the hospital, still she has not recovered fully from the injuries sustained by her in the aforesaid accident.

3. Regarding the accident, Jagiroad P.S. made a G.D.E. No.355 dated 12.3.16.

4. Hence, the claimant has filed this case claiming compensation of Rs.2,59,000/-.

5. The O.P. No.1, New India Assurance Co. Ltd. submitted their written statement, wherein it is stated that the claim petition is vague and does not disclose the full particulars of the alleged accident and there is suppression of materials facts and as such, prayed to dismiss the claim petition.

6. The O.P. No.2 & 3 i.e. owner and driver of the offending vehicle submitted their written statements separately, wherein it is stated that the claim petition does not contain complete materials and is vague and incomplete and therefore, it is liable to be dismissed. The O.Ps further stated that on the date of the accident, the vehicle was duly insured with New India Assurance Co. Ltd. and as such, the claimant is not entitled to any compensation from them. Hence, prayed to dismiss the claim petition against them.

7. On the basis of the pleadings, following issues were framed –

- (i) Whether on 12.3.2016 the claimant sustained injury as a result of rash and negligent driving of the vehicle bearing registration No.AS-01-GC-0266 (Night Super Bus)?
- (ii) Whether the claimant is entitled to get compensation?
If so, to what extent and from whom?

8. **Issue No.(i):-** The claimant is examined in the case as CW1. She reiterated the same facts, what have been narrated in her claim petition. The claimant has also exhibited some documents, which are marked as Ext.1 to Ext.60.

9. The claimant also examined Sri Bhoj Raj Chetry, who happens to be the eyewitness to the accident. According to this witness, on 11.3.2016 at the

request of the claimant Mina Kumari Chetry, he accompanied her in a night super bus bearing No.AS-01-GC-0266 and they were proceeding from Dholla Bazar towards Guwahati to meet the daughter of the claimant. On 12.3.16 at about 4.30 A.M., when the bus reached Amlighat under Jagiroad P.S., the accident took place and it took place only due to rash and negligent driving of the driver of the bus. Due to high speed, the driver lost control over the bus and as a result, it fell down on the ground. As a result, he sustained injuries. The claimant also sustained grievous injuries.

10. From Ext.2 i.e. Accident Information Report, it appears that on 12.3.16 at Amlighat, the accident took place and in the said accident, the claimant sustained injuries and the accident took place due to negligent driving by the driver of vehicle bearing registration No.AS-01-GC-0266.

11. From the evidence of CW1 and other documents available in the record, it appears that the accident took place due to rash and negligent driving by the driver of the offending vehicle. So, Issue No.(i) is decided accordingly.

12. **Issue No.(ii)**:- In view of the aforesaid decision, the claimant is certainly entitled to compensation. According to the claimant, due to the alleged accident, she incurred medical expenditure worth Rs.87,000/- and in support of the same, she has also filed the medical documents in respect of her treatment in connection with the accident. Hence, the claimant is entitled to receive that amount on medical expenses head.

13. On pain and suffering head, the claimant is awarded Rs.10,000/-.

14. The claimant was treated at Guwahati. So on travelling expenses head she is awarded Rs.10,000/-.

15. In total, the claimant is awarded Rs.1,07,000/-.

16. At the relevant time of accident, the offending bus was duly insured with New India Assurance Co. Ltd. This being the position, O.P. No.1 is liable

to pay the compensation to the claimant. Issue No.(ii) is decided accordingly.

O R D E R

17. The claim case is accordingly disposed of. The O.P. No.1 is directed to pay Rs.1,07,000/-(Rupees One lakh seven thousand) only to the claimant within two months, failing which, the amount of compensation will carry interest @ 6% per annum from the date of filing of the claim petition and till realisation.

Given under my hand and seal of this Tribunal on this the 26th day of July, 2019.

Dictated and corrected by me.

Member, MACT
Tinsukia

(P. J. Saikia)
Member, MACT
Tinsukia