

(2014) 11 TP CK 0049
In the Tripura High Court
Case No : Mac App. No. 15 of 2003
Dipali Roy VsThe State of Tripura

Date of Decision : 03-11-2014

Acts Referred:

Citation : (2014) 11 TP CK 0049

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : S.K. Dutta, Advocate for the Appellant; S. Chakraborty, Addl. GA, Advocate for the Respondent

Judgement

Deepak Gupta, C.J.—The sole question involved in this case is whether in the case of a security personnel, deputed in a police vehicle, if the said security personnel is killed due to a terrorist attack, the incident can be said to be an accident arising out of the use of a motor vehicle.

2. The undisputed facts are that the deceased Kabir Roy was a rifleman of Tripura State Rifles (TSR), 2nd Bn. On 22-03-1998, he along with other personnel of the TSR were on their way to Khowai travelling in vehicle No. TR-01-1049. Near Mangal Choudhury Para, extremists attacked the vehicle and bullets were fired. The deceased received bullet injuries and expired. The question is whether such an incident can be said to arise out of a motor vehicle accident or not.

3. A learned Single Judge of the then Agartala Bench of the Gauhati High Court has given a detailed judgment in Smt. Basu Mati Debbarma and two others vs. Smt. Anita Debbarma and three others [MAC APP. 26 of 2001 and other connected matters] wherein he has held that though such an incident may be said to be an accident in relation to third parties but in the case of security personnel such an incident is not an accident and the Motor Accident Claims Tribunal has no jurisdiction. Reference may be made to the following observation of the learned Single Judge:-

"The security persons who were deputed for escort duty for providing security of the movement of the vehicles and passengers in the extremist infested areas

could foresee that their such deployment may invite the peril. This being the part of their engagement that cannot be termed as an accident not merely for that the peril is foreseeable and considering such peril and risk to their life they were given engagement of protecting life of the ordinary civilian, but such suddenness in the turn of events cannot be brought with the construct of accident arising from the use of the motor vehicle. But the State should set-up scheme for adequate compensation and rehabilitation of their dependents. This Court, therefore, is constraint to hold that the appeals filed by the dependants/legal heirs of the deceased security personnel who died in the extremist violence must fail."

4. This judgment is being followed in this Court and Sri S.K. Dutta, learned counsel for the appellant, has pointed out that he has filed SLPs in the Apex Court challenging the said judgment which have been admitted. A number of dates were granted to await the judgment of the Apex Court. However, till now no judgment has been delivered. The matter is of the year 2003 and, therefore, in view of the judgment delivered in Smt. Basu Mati Debbarma's case, the appeal is devoid of merit.

5. The appeal is accordingly rejected.

6. Send down the lower court records forthwith.