

S/L 13
18.08.2026
Court No.9
Swd

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

**FMA 12 of 2026
With
CAN 2 of 2025**

**Smt. Sagarika Bhowmik & Ors.
Vs.
United India Insurance Company Ltd. & Ors.**

*Mr. Amit Ranjan Pati,
Ms. Swastika Chowdhury,
Ms. Ilika Nag.
Mr. Sourav Gupta,
Mr. Avijit Chatterjee.*

... for the Appellant.

Mr. Rajesh Singh.

... for the Respondent.

1. The learned Advocate for the parties are present.
2. Heard learned Advocates.
3. The appellants before this Court were the claimants in a case under Section 166 of the Motor Vehicles Act, 1988 and are aggrieved by the judgment and award dated 29th January, 2025 passed by the learned Additional District Judge, R. D. Court at Paschim Medinipur in M.A.C Case No.107 of 2016.
4. The case of the claimants appellants before the learned Trial Court may be summed up thus:

On 25.10.15 at about 14:30 hours the deceased Subal Bhaumik @ Subal Chandra Bhowmik along with others were travelling by a vehicle bearing Registration No. WB42H/7485 (Travera) through NH - 6 (Bombay Road) and the deceased

started his journey from Kharagpur and his destination was Panskura. When the said vehicle reached at Krishnanagar near Kalu's Hotel at that time the offending vehicle bearing registration No. WB29A/6466 (Truck) was coming from opposite side from Debra side towards Kharagpur side through NH 6 (Bombay Road) being driven by its driver at a high speed and rash and negligent manner and as a result the driver of the offending vehicle bearing registration No. WB29A/6466 (Truck) lost his control over the said vehicle and dashed the vehicle bearing No.WB42H/7485 from face to face and as a result the deceased Subal Bhaumik @ Subal Chandra Bhowmik and others sustained grievous bleeding injury on their persons.

Immediately after the accident the deceased Subal Bhaumik @ Subal Chandra Bhowmik was admitted to Midnapur Medical College & Hospital with the help of the local people. The Medical officer of Midnapur Medical College and Hospital declared him dead.

The accident took place due to rash and negligent driving of the driver of the offending vehicle bearing registration No.WB29A/6466 (Truck) who drove the vehicle violating/ignoring the traffic rules and endangering the safety and security of others.

5. Pursuant to filing of this case, notice was issued upon opposite parties. The opposite parties vehicle owners did not appear to contest the case. However, the opposite parties Insurance Companies contested the case by filing written statement. Issues were framed and evidence was adduced.
6. Learned Trial Judge upon considering the evidence adduced and upon hearing the learned Advocates was pleased to dispose the claim case by observing and directing as follows:

"Hence, it is

ORDERED

that the instant claim petition u/s 166 of the M. V. Act Is allowed on contest against O.P. Nos.3 and 4 and ex-parte against O.P. Nos.1 and 2 without cost.

The claimants are entitled to an award of Rs.3,24,500/- from O.P no. 3 for the accidental death of Subal Bhaumik @ Subal Chandra Bhowmik.

The claimant no.1 being the wife of the deceased shall be awarded Rs. 68,900/- where as claimant nos.2 to 5 being the legal heirs of the deceased shall be awarded Rs.63,900/- each.

O.P. No.3 is directed to issue five numbers of account payee cheques of the above mentioned amount in favour of the above three claimants

within two months plus Interest @ 6% per annum from the date of filing of this case upto 29.01.2025 within 29.03.2025, failing which petitioners/claimants will be at liberty to put the decree in execution.

O.P. No.3 is directed to issue account payee cheque of the above amount in favour of the above claimant within 29.03.2025.

O.P. No.3 shall be liable to pay further interest at the rate of 6% per annum after 29.03.2025 till payments, if payment is not made within 29.03.2025.

Let a copy of this judgement be handed over to O.P.no.3 Cholamandalam MS General Insurance Co. Ltd.”

7. The appellant claimants being aggrieved by the quantum of compensation awarded by the learned Trial Judge has come up with the instant appeal.
8. Heard learned Advocate for the appellant and learned Advocate for the respondent United India Insurance Company Ltd. Perused the evidence adduced and the materials on records.
9. Learned Advocate for the appellant submits that although the claimants filed relevant documents before the learned Trial Court about the qualification of the victim and although the claimants furnished the total number of

dependents of the victim, but the learned Trial Judge instead of considering the monthly income of Rs.20,000/- has considered the monthly income of Rs.5,000/- of the victim. Learned Advocate further submits that the compensation awarded by the learned Trial Court is meagre and the same should be enhanced.

10. Learned Advocate for the respondent United India Insurance Company Limited submits that the claimants appellants have neither filed their income tax return of the victim nor filed any accounts book showing the business transactions nor filed any other bank passbook from which the income of the victim could have been ascertained. Learned advocate submits that the learned Trial Judge rightly considered the monthly income as Rs.5,000/-.

11. Upon considering the submissions of the learned Advocates and the materials on record, the Court is of the view that although the appellants claimants could not furnish any income tax return, bank passbook or books of accounts of the business, but considering the documents submitted with regard to the qualification of the victim from West Bengal Pharmacy Council, the mentioning of the provisional address as Bhowmik Medical Stores, Purba Medipur and the receipt issued by the Directorate of Drug

Control where the name of the shop is mentioned as Bhowmik Medical Stores, that the victim running a medicine shop cannot be ignored.

12. Thus, considering the nature of the business, the age of the victim and the number of dependents which the victim had, this Court is of the view that it would be reasonable to consider the monthly income of the victim as Rs.10,000/-.

13. In the event the monthly income of the victim is considered to be Rs.10,000/-, the compensation awarded by the learned Trial Court should be doubled. Instead of Rs.3,24,500/-, the same comes to Rs.6,49,000/-. Further, considering the general damages on the loss of consortium, this Court is of the view that the total compensation of Rs.7,00,000/- is just and reasonable.

14. Hence, this appeal **FMA 12 of 2026** with **CAN 2 of 2025** stands disposed. judgment and award dated 29th January, 2025 passed by the learned Additional District Judge, R. D. Court at Paschim Medinipur in M.A.C Case No.107 of 2016 stands modified to the extent that the claimants appellants are entitled to compensation of Rs.7,00,000 from the respondent No.1, United India Insurance Company Limited.

15. The respondent No.1 United India Insurance Company Limited shall deposit before the Registrar General, High Court, Calcutta,

Rs.7,00,000/- along with interest at the rate of 6% per annum from the date of filing claim case till today. In the event compensation awarded by the learned Trial Court is paid or deposited before the Registrar General, High Court, Calcutta, the balance amount of compensation be deposited. Such deposit shall be made within eight weeks from the date of communication of this court.

16. The claimants appellants will be entitled to withdraw the compensation upon compliance of necessary formalities. The deficit Court fees on the enhanced compensation be paid before the learned Trial Court within four weeks. The Trial Court records be sent at the special messenger cost of the appellants claimants to be deposited within one week.

17. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(BISWAROOP CHOWDHURY, J.)