

S/L 75
18.08.2026
Court No.9
Swd

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 21 of 2026
With
CAN 1 of 2025

National Insurance Company Ltd.
Vs.
Soni Devi & Ors.

Mrs. Sucharita Paul.

... for the Appellant/ Insurance Co.

Mr. Ashique Mondal.

... for the Respondent/ Claimant.

1. Learned Advocates for the parties are present.
2. Heard learned Advocates.
3. The appellant before this Court was an opposite party in a case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award dated 31st July, 2025 passed by the learned Judge, Bench V, City Civil Court, Calcutta in M.A.C Case No.518 of 2019.
4. The case of the claimant before the learned Trial Court may be summed up thus:

On 15.07.2019 in between 05.00 to 05.30 hours the victim, namely, Rakesh Kumar Roshan was driving the vehicle bearing No.HR 55AD/2922 over NH-6 near Monosatala bridge towards Kolkata side from Kolaghat side, at the material time the culpable reckless driver of the Truck No.

WB-11C/5406 without giving any signal to move the vehicle backwards in a rash and negligent manner dashed the vehicle No.HR 55AD/2922 with a great force. As a result of the said accident the victim sustained severe fatal injuries and it caused his death.

Rash and negligent driving on the part of the reckless driver was the sole cause of the pathetic accident which could easily be avoided at the material time by prudent driving.

5. Pursuant to filing of this case, notice was issued upon opposite parties. The opposite party vehicle owner did not contest the case. However, the opposite party Insurance Company 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 MAC Case No. 518 of 2019 is allowed on contest as against the O.P. No. 2 National Insurance Co. Ltd. and ex-parte against O.P No. 1, but without any order as to the cost. Claimants are entitled to compensation of Rs.50,16,256/- along with interest @6% per

annum from the date of filing of this petition till its realization from the O.P No.2 subject to payment of deficit court fees with reference to the awarded amount.

O.P No. 2 is directed to pay the awarded amount along with the interest at the aforesaid rate for the period mentioned above in equal share by six (6) A/C payee cheques in the name of claimant nos. 1, 2, 4, 5, 6 and 7 within three months from the date i/d petitioner shall be at liberty to put the same in execution.

However O.P no.2 shall be at liberty to recover the awarded amount from O.P no.1.

Thus, this MAC Case No. 518 of 2019 stands disposed of.

Let a copy of this Order be made available to the Ld. Advocate for the O.P. No. 2 for necessary action.”

7. The appellant Insurance Company being aggrieved by the judgment and award passed by the learned Trial Court has come up with the instant appeal.
8. Heard learned Advocate for the appellant Insurance Company and learned Advocate for the claimant respondent. Perused the evidence adduced and the materials on records.
9. Learned Advocate for the appellant submits that the learned Trial Judge erred in not considering

the issue of contributory negligence as raised by the appellant. Learned Advocate further submits that the learned Trial Judge erred in arriving at the compensation of Rs.50,16,256/-, which goes to show that the calculation itself is an error. Learned Advocate also submits that the compensation granted is excessive.

10. Learned Advocate for the respondent claimant disputes the submission of the learned Advocate for the appellant.

11. Upon perusing the materials on record and upon hearing the learned Advocates, with regard to the first submission of the learned Advocate for the appellant, the Court is of the view that as no evidence was adduced by the appellant before the learned Trial Court with regard to contributory negligence, such plea cannot be taken at this stage.

12. With regard to the computation of compensation, this Court finds that with regard to personal expenses, there appears some mistake in calculation. In the event, annual income is considered as Rs.2,85,420/- as observed by the learned Trial Judge, personal expenses of one-fourth, which is Rs.71,355/- being adjusted, the total annual income comes to Rs.2,14,065/-. Future prospect of 40% being added, which is Rs.85,626/-, the net annual dependency loss

comes to Rs.2,99,691/-. By applying the multiplier of 16, the total dependency loss comes to Rs.47,95,056/-.

13. The general damages of Rs.70,000/- added comes to Rs.48,65,056/-. Thus, the total compensation which the claimants respondents are entitled to as per arithmetical calculation is Rs.48,65,056/-. However, this Court is of the view that compensation of Rs.48,50,000/- is just and reasonable.

14. Hence, this appeal **F.M.A. 21 of 2026** with **CAN 1 of 2026** stands disposed. The judgment and award dated 31st July, 2025 passed by the learned Judge, Bench V, City Civil Court, Calcutta in M.A.C Case No.518 of 2019 stands modified to the extent that the claimant respondents are entitled to Rs.48,50,000/- from the appellant Insurance Company along with interest at the rate of 6% per annum from date of filing claim case till today. The appellant insurance company shall deposit Rs.48,50,000 /- along with interest at the rate of 6% per annum before the Registrar General, High Court, Calcutta, within eight weeks from the date of communication of this order.

15. In the event, the compensation awarded by the learned Trial Court is already deposited, no further deposit be made.

16. The claimants respondents will be entitled to withdraw the compensation upon compliance of necessary formalities. The balance amount, if any, shall be returned to the appellant insurance company along with accrued interest.
17. With regard to the right of recovery as observed by the learned trial judge as there is no challenge with regard to the said findings, this Court does not think fit to interfere with the same.
18. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(BISWAROOP CHOWDHURY, J.)