

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 317 of 2011

The New India Assurance Co. Ltd.
Vs.
Surojit Das

Mr. Parimal Kumar Pahari
... For the appellant/Insurance Co.

Mr. Krishanu Banik
... For the respondent/claimant

Learned advocate on behalf of the respondent/
claimant has entered appearance by filing Vakalatnama in
the department bearing filing no.A-2064 dated 7th
February, 2011.

This appeal is directed against the judgment and
award passed on 17th August, 2010 by the learned Judge,
Motor Accident Claims Tribunal, 2nd Court, Malda, in MAC
Case No.214 of 2009 under Section 166 of the Motor
Vehicles Act, 1988 whereby the learned Tribunal awarded
a sum of Rs.1,43,000/- in favour of the claimant.

The Motor Accident Claim Case arose out of a
claim application with a prayer for compensation to the
tune of Rs.1,50,000/- for injuries sustained by the victim/
claimant on 25th November, 2008 at about 6.30 p.m. by
the involvement of one vehicle (Scorpio) bearing
registration no.WB-66C/0011. It was alleged that at the
relevant point of time, the victim along with his family

proceeding towards Balurghat by his own vehicle. While the vehicle reached near Nakrakuri Bridge, suddenly the vehicle turned turtle due to sudden de-control driving by the driver. As a result, he sustained injury and he was treated in hospital and operation was done and he was still under treatment.

The appellant/New India Assurance Company Limited contested the claim petition by filing written statement, denying all material allegations contained in the claim petition.

In course of proceeding, the claimant himself examined as PW-1 and stated about the incident and his earning from transport business was Rs.6,000/- per month. He submitted documents showing treatment.

Considering the evidence together with the documents, the learned Tribunal assessed the award at Rs.1,43,000/- considering the confinement of victim to bed for 45 days.

In course of argument, learned advocate on behalf of the appellant/Insurance Company has submitted that there is no policy coverage for the injuries sustained by the owner of the vehicle and that is why the victim was not entitled to any compensation.

Learned advocate appearing on behalf of the respondent/claimant has drawn my attention to Exhibit-4.

It is found from the insurance policy (Ext.-4) that there was personal accident coverage in the policy itself.

Therefore, I find no merit in the submission advanced on behalf of the appellant/Insurance Company.

In the premise set forth above, I also find no reason to interfere with the judgment and award passed by the learned Tribunal.

Thus, the judgment and award passed by the learned Tribunal is hereby affirmed.

It is found that the awarded amount has already been deposited by the respondent/New India Assurance Company Limited before the office of the learned Registrar General on 18th January, 2011.

The respondent/claimant is entitled to the awarded compensation of Rs.1,43,000/- along with accrued interest.

The learned Registrar General will disburse the amount with accrued interest to the respondent/claimant on proper identification.

With the observation, the appeal, being FMA 317 of 2011, stands disposed of.

All pending applications, if any, also stand disposed of.

Records of the learned Tribunal be transmitted back immediately.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)