

14.08. 2023
Ct. No.654
Sl.No.13
KB

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

**FMA 829 of 2021
with
IA No. CAN 1 of 2019
(Old No. CAN 9528 of 2019)**

**Mahebuba Khatoon
-Vs-
The United India Insurance Co. Ltd. & Anr.**

Mr. Amit Ranjan Roy
Ms. Afrin Nahar Mondal
... For the appellant-claimant
Mr. Rajesh Singh
... For the Respondents-Ins. Co.

This appeal is preferred against the judgement and award dated 14th February, 2019 passed by learned Additional District Judge cum Judge, Motor Accident Claims Tribunal, 3rd Court, Tamluk, Purba Medinipur in M.A.C. Case No. 5 of 2015 granting compensation of Rs.5,00,000/- together with interest from date of order in favour of the appellant-claimant under Section 166 of the Motor Vehicles Act, 1966.

The brief fact of the case is that on 9th March, 2013 at about 9.30 A.M. while the minor victim was standing beside Bhabanipur-Rajnagar pitch road at Sitalpur near her house at that time the offending vehicle bearing Registration No.WB-30H/1338 in a rash and negligent manner dashed her, as a result of which the victim sustained grievous injuries all over her body. The victim was treated at several hospitals and ultimately she sustained disablement on her right

foot. On account of the injuries sustained and the subsequent disablement, the victim filed application for compensation of Rs.5,00,000/- together with interest under Section 166 of the Motor Vehicles Act, 1988.

The claimant in order to establish her case examined four witnesses and produced documents which have been marked as **Exhibit 1** to **10** respectively.

The respondent no.1-insurance company did not adduce any evidence.

By order dated 6th June, 2023 service of notice of appeal upon respondent no.2-owner of the offending vehicle was dispensed with.

Upon considering the materials on record and the evidence adduced on behalf of the claimant, the learned Tribunal granted compensation of Rs.5,00,000/- together with interest from date of order under Section 166 of the Motor Vehicles Act, 1988.

Being aggrieved by and dissatisfied with the impugned judgment and award of the learned Tribunal, the claimant has preferred the present appeal.

Mr. Amit Ranjan Roy, learned advocate appearing for the appellant-claimant submits that the Learned Tribunal erred in granting interest on the compensation amount from the date of order whereas

it ought to have granted interest from the date of filing of the claim application. He prays for modification of impugned judgment and award of the learned Tribunal.

Mr. Rajesh Singh, learned advocate for the respondent no.1-insurance company opposes such prayer.

The only issue involved in the present appeal is whether the compensation granted by the learned Tribunal should carry interest from the date of filing of claim application.

With regard to the aforesaid issue, it is found that the learned Tribunal though granted interest on the compensation amount but such interest has been granted from the date of order. There is no such reason assigned for granting interest from the date of order and not from the date of filing of the claim application. Ordinarily, where the claim succeeds the interest on the compensation should be from the date of filing of the claim application.

It is informed that the claimant has received the amount of compensation and the interest in terms of the order of the learned Tribunal.

Accordingly, the claimant is entitled to interest on the compensation amount of Rs.5,00,000/- at the rate of 6% per annum from the date of filing of the claim application till passing of the order by the

learned Tribunal.

Respondent no.1-insurance company is directed to deposit the aforesaid interest amount by way of a cheque before the learned Registrar General, High Court, Calcutta within a period of six weeks from date.

Upon deposit of the aforesaid amount, learned Registrar General, High Court, Calcutta shall release the amount in favour of the claimant upon satisfaction of her identity.

Sk. Matibul Ali, father and natural guardian of the claimant shall receive the aforesaid amount on behalf of minor-appellant and keep the same in a Fixed Deposit Scheme of any Nationalised Bank or Post Office till attainment of the majority of the appellant.

With the aforesaid observation, the appeal stands disposed of. The impugned order of the Learned Tribunal is modified to the above extent. No order as to costs.

All the connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

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

(Bivas Pattanayak, J.)

