

05.08.2024
Piya
Court No. 30
Sl. No. 85

**FMA 960 of 2018
(FMAT 1266 of 2017)**

**Tarun Tapan Mitra
Vs.
Tata AIG General Insurance Company Limited & Anr.**

Mr. Ashique Mondal
.....**For the Appellant**

Mr. Rajesh Singh
..... **For the Respondent no. 1/
Insurance Company**

1. The present claim appeal has been preferred by claimant/appellant against the Judgment and Award dated 30.08.2017 passed by the learned Judge, 10th Bench, City Civil Court, Calcutta, in M.A.C.C. No. 328 of 2008, **under Section 166 of the Motor Vehicles Act.**

2. Facts :-

*“A motor accident took place at about 12:30 hours on 20.12.2007 on Bagmary Road and C.I.T. Road Crossing in front of E.S.I., Manicktala Hospital, when the claimant was a passenger of Maruti Car bearing no. WB-02/D-9999. At that time one private car being no. WB02/X-7252 dashed the said Maruti Car bearing No. WB-02/D-9999 by coming in rash and negligent manner. As a result of which the passenger of said Maruti Car namely Tarun Tatpan Mitra received **fracture injury** on his person and removed to E.S.I., Manik Tala Hospital and then he was transferred to Apollo Gleneagles Hospital, Kolkata on the same day and discharged on*

25.12.2007. Prior to accident, injured was a business man having own trading business namely, M/s Synnergy and used to earn Rs.8,000/- p.m. This accident has impaired the power and function to the left shoulder joint of the claimant and due to that he is unable to work properly. The owner of the said offending vehicle is Mrs. Mili Ribiwala and the said vehicle was insured under TATA AIG General Insurance Co. Ltd. The said accident in question took place by the offending vehicle as it was coming in rash and negligent manner.”

3. The TATA AIG General Insurance Co. Ltd. i.e. O.P. No. 2, filed Written Statement denying the claim of the claimant/appellant stating that the claimant has no cause of action against this O.P. It also stated that when two vehicles were involved in the accident then both vehicle should have been impleaded.
4. The Claimant examined **three** witnesses including himself.
5. The opposite party/Insurance Company did not examine any witness.
6. The Claimant proved relevant documents before the learned Tribunal which were marked as exhibits, including **Exhibit 12** which shows that the claimant sustained **disability to the extent of 30%**.
7. **Finally, the learned Tribunal held as follows :-**

“M.A.C.C. No. 328 of 2008

Dated 30.08.2017

.....As per as calculation of compensation is concerned the notional income is Rs.3000/-, multiplier is 5 and disability is 30%. If I calculate all these things then it will come yearly as Rs.3000/x 5 x 12 x 30/100= 54,000/-. I also find that this claimant has incurred medical expenditure to the

tune of Rs.84,807/-. If I add this amount with Rs.54,000/- it comes to Rs.1,38,807/-. Apart from that claimant will get Rs.5,000/- for his pain and suffering as the accident in question is fracture injury which is grievous in nature. When I add this amount then it comes to Rs.1,43,807/- which claimed is entitled to get as compensation in this case.....

**Sd/-
Judge,
10th Bench, City Civil Court,
Calcutta”**

8. Being aggrieved the present appeal has been preferred on the ground that:-

The Tribunal's award is not in accordance with law as the rate of interest granted is not correct and the Tribunal also did not grant compensation to the claimant to the extent that he is entitled.

- 9.** On hearing both the parties it appears that the appellant's main grievance is regarding the rate of interest on the compensation granted to the Claimant/Injured by the tribunal.
- 10.** Admittedly, the Claimant/Appellant has received the amount of compensation of **Rs. 1,43,807/-** together with interest in terms of order of the learned Tribunal. Accordingly, the Claimant is now entitled to the **interest at the rate of 6% per annum from the date of filing of the claim application till deposit.**
- 11.** Taking into consideration, the amount already received by the Claimant/Appellant, the Respondent No. 1/Insurance Company **shall now deposit the interest,**

as directed, with the learned Registrar General, High Court, Calcutta, within a period of six weeks, who shall then release the amount in favour of the Claimant, upon satisfaction of his identity and payment of ad-valorem Court fees, if not already paid.

12. The impugned judgment and award of the learned Tribunal is modified to the above extent.

13. The appeal being FMA 960 of 2018 /FMAT 1266 of 2017 stands disposed of.

14. No order as to costs.

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

16. Interim order, if any, stands vacated.

17. Copy of this order be sent to the Learned Tribunal, along with the trial court records, if received.

18. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Shampa Dutt (Paul), J.)