

District:

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Ananya Bandyopadhyay

FMA 141 of 2011

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IA No: CAN/1/2013(Old No: CAN /7968/2013),

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IA No.: CAN/2/2025,

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IA No.: CAN/3/2025

TAPAN KUMAR NASKAR & ANR.

VS

NATIONAL INSURANCE CO. LTD. & ANR.

Mr. Niranjan Maity

... for the appellants/claimants

Mr. Rajesh Singh

... for the respondent No.1/Insurance co.

Heard on & Judgment on : 19.08.2025

Ananya Bandyopadhyay J.

1. The Learned Advocates representing both the parties are present in court.
2. The instant appeal had been filed against the judgment and order dated 23.11.2009 passed by the Learned Judge, Motor Accident Claims Tribunal, 6th Court, Alipore in MAC Case No.47 of 2008.

3. An application under Section 163A of the Motor Vehicle Act, had been filed by the claimants being father of the victim who had been minor at the time of the accident incurred by him on 02.10.2007 in between 9PM to 9:30 PM at Diamond Harbour Road within the jurisdiction of Bishnupur Police Station with the involvement of a Bus bearing registration No.WBS-5313 which proceeded towards Kolkata from Amtala at an excessive speed rashly and negligently collided with the Bicycle being driven by father of the victim wherein the victim had been a co-passenger as an impact of such collusion the victim being the minor son of the appellants claimants had fallen down and injured himself to the extent of 30 per cent disability assessed by a private Doctor being PW-2.

4. The Learned Advocate representing the appellants/claimants submitted to have filed an application being IA No.: CAN 2 of 2025 which, inter alia, stated that the minor victim during pendency of the instant appeal had obtained the age of majority as per Birth Certificate filed along with the application as Annexure. The department is directed to take note of the age of majority being attained by the victim.

5. The Learned Advocate representing the appellants/claimants further submitted that the instant appeal had been filed being aggrieved by the observation of the Learned Tribunal in granting Rs.6,000/- instead of Rs.20,000/- as medical expenses as well as a minimum of Rs. 10,000/- towards pain suffering disregarding the medical bills produced by the claimants for purchasing medicine.

Moreover, the Learned Tribunal did not calculate any compensation with regard to future prospect discarding the discomfort, loss of enjoyment and suffering attributed to the victim throughout his life as effect of the accident.

6. The Learned Advocate representing the respondent No.1/Insurance Company submitted in an application filed under Section 163A of the MV Act in view of the notification dated 22nd May, 2018 vide the Second Schedule there has been a mandatory stipulation with regard to the amount of compensation to be awarded in case of minor injury sustained by a victim. It was further submitted that the evidence of the father of the victim being PW-1 revealed that the victim had been recovered from the injury incurred by him and was leading a normal life. The amount of compensation therefore, should be restricted to a sum of Rs.25,000/- in view of the notification dated 22nd May, 2018.

7. The Learned Advocate representing the respondent No.1/Insurance Company further submitted that the Learned Tribunal had awarded a sum of Rs.52,000/- along with an interest at the rate of 5% per annum from the date of filing of application till the date of actual realisation and the appellants/claimants had already received the aforesaid amount. The impugned judgment was pronounced in the year 2009 whereby the Learned Tribunal did not have the scope to assess the notification as mentioned above. The same being promulgated on 22nd May, 2018.

8. In view of the present notification and the subsequent decision of the Hon'ble Supreme Court in plethora of cases which otherwise followed the proposition mandatorily laid down in the aforesaid notification, the impugned judgment and order dated 23.11.2009 is not interfered with.

9. Accordingly, the instant appeal is dismissed

10. Pending applications, if any, stands disposed of.

11. The TCR be sent down to the concerned Tribunal forthwith.

12. Copy of the order be sent to the Department for immediate compliance.

(**Ananya Bandyopadhyay, J.)**