

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 454 of 2025

**Magma HDI General Insurance Company Limited
Versus
Shuvam Rabi Das & Anr.**

With

COT/76/2025

**Shuvam Rabi Das
-Vs.-
Magma HDI General Insurance Company Limited & Anr.**

For the Appellant	:	Mr. Rajesh Singh
For the Respondent No.1	:	Mr. Amit Ranjan Roy
Heard & Judgment on	:	3 rd September, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent No.1 /claimant are present.
2. The instant appeal had been filed against the judgment and award dated 20th December, 2024 passed by the Learned Judge,

Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 153 of 2022.

3. The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal on the ground that the Learned Tribunal considered the monthly income of the victim to be Rs. 4800/- which had been excessive. Moreover, it was further submitted since the victim had suffered 95% disablement through the disability certificate issued by the Medical Board marked as Ext. 11 the Learned Tribunal considered the functional disability to the extent of 100% whereby loss of earning capacity was considered to the extent of 100% and sum of Rs. 50,000/- had been granted which was exorbitant. Moreover a penal interest of 10% was granted which was on the higher side.
4. The Learned Advocate representing the respondent No.1 /claimant submitted to have filed a cross objection being COT 76 of 2025 claiming the victim being a child of two and half years of age was not granted any amount of money towards attendant charges and prosthetic limb.
5. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself

only to the extent of issues agitated by the Learned Advocates representing the respective parties. Considering the facts and circumstances of the case the child who have been amputated of his right arm from the shoulder did not or might not be receive the liberty to grow in a manner which would enable him to lead his life normally and the amputation of the right hand from the shoulder effectively would have rendered him physical incapacitated to the extent of incurring loss of functional ability to the extent of 100% and this Court is not inclined to interfere with the same. However, the compensation in accordance with the heads denoted by the Learned Tribunal in the estimation of his Court is inadequate. The Learned Tribunal at least should have granted Rs. 2,00,000/- towards future medical expenses as well as attendant charges. The other aspects remain the same.

6. The Learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 22,77,337/=(Rs. 25,000 + 22,52,337) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company. The Learned Advocate representing the appellant/insurance company is to deposit a further sum of Rs. 1,50,000/- along with interest at the rate of 6% per annum from the date of filing of the claim application till the date of its realization before the office of the

Learned Registrar General, High Court at Calcutta as expeditiously as possible.

7. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount and enhanced amount so deposited with accrued interest to the present respondent Nos. 1 /claimant as mentioned by Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 153 of 2022 on proof of proper identification of the respondent No.1 /claimant subject to payment of ad valorem Court fees. The office of the learned Registrar General, High Court at Calcutta will instruct the claimant to provide details of his bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

The instant appeal and cross objection are disposed of accordingly.

8. The interim order if any stand vacated.
9. The TCR be sent down to the concerned tribunal forthwith.
10. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)