

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 442 of 2024

National Insurance Co. Ltd.

Vs.

Surajit Halder & Ors.

For the Appellant : Mr. Sanjay Paul
Ms. Jaita Ghosh

For the Respondents : Mr. Niranjana Maity

Heard & Judgment on : 08.05.2025

Ananya Bandyopadhyay, J.:-

1. The instant appeal was heard earlier and judgment was reserved.

However, the matter was listed under the heading "For Hearing" for further clarification.

2. The Learned Advocates representing the respective parties.

3. The claimant, being the victim, filed an application under Section 166 of the M.V. Act in the Court of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track-II, Alipore, being MAC Case No. 50 of 2019, claiming compensation for the injuries sustained in a road traffic accident that occurred on 06/10/2011. The offending vehicle, a car bearing Registration No. WB-12A-1830, driven in a rash and negligent manner, dashed the claimant from behind while he was travelling on a motorcycle along with Abhijit Biswas and Subhas Das through Newtown Salt Lake Road. As a result of the accident, the

claimant sustained grievous injuries and, despite receiving medical treatment, could not recover fully and continues to suffer from various ailments. It was contended that he suffered permanent disablement and loss of earning, in addition to undergoing severe mental agony and pain. The Newtown P.S. Case No. 371 dated 06/10/2011 under Sections 279/338/304B/427 of the IPC was registered on the basis of the information report. The claimant disclosed that at the time of the accident, he was 16 years and 8 months old, a student of Class X, and earning a notional income of Rs. 3,000/- per month. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him. The respondents, The National Insurance Co. Ltd. contested the aforesaid MAC case.

4. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded a sum of Rs. 2,80,000/- as well as an interest of 6% from the date of filing the case till the realization of the amount.
5. The Learned Advocate representing the appellant/insurance company relying upon the decisions of the Hon'ble Supreme Court in Raj Kumar Vs. Ajay Kumar & Anr.¹ Stated that the claimants were entitled to any compensation. The victim did not incur any permanent disability. There was no loss of income. Multiplier method should not have been applied owing to fake driving licence and insurance policy if at all liable to pay

¹ 2011 (1) T.A.C. 785(S.C.)

compensation should be granted right to recover the same from the owner of the offending vehicle.

6. The Learned Advocate representing the respondent No.1/claimant submitted that the learned Tribunal had rightly assessed the compensation award. Accordingly, the impugned judgment and order should not be interfered with.
7. Considered the submission of the Learned Advocates representing for both the parties.
8. Since, the occurrence of the accident, have not been disputed by the Learned Advocate representing the appellant/insurance company, this Court restricts itself only to the points agitated by the Learned Advocate representing the appellant/insurance company as well as respondents/claimants. The examination of D.W.1 being Motor vehicles Inspector at Alipore RTO has submitted as follows:

4. "I have produced the extract of D.L. being number WB-19175643. After software updation the number has changed as per system. Now the D.L. number is Wb-2020020225231.

5. This D.L. was issued in the name of Jahir Hossain Sekh S/o Soleman. It was issued on 14.05.2002. In respect of Transport it is valid till 02.04.2012 and in case of Non Transport it is valid till 02.04.2029.

6. on 06.10.2011 the D.L. was valid.

7. I have produced the duly authenticated copy of the extract of D.L. (The certified copy of Extract copy of D.L. is marked as Exhibit-B)".

9. The aforesaid submission of the Motor vehicles Inspector at Alipore RTO nullified the claim of the learned Advocate representing the appellant/insurance company awarded is just. Under such circumstances, this Court is not inclined to interfere with the impugned judgment and order.

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 4,86,212/=(Rs. 25,000 + 4,61,212) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
11. The Respondent Nos. 1 /claimant is entitled to receive the amount of Rs. 2,80,000/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
12. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest to the present respondent Nos. 1 /claimant as mentioned in the impugned judgment and order passed by the Learned Judge, Motor Accident Claims Tribunal Fast Track-II, Alipore in M.A.C. Case No. 50 of 2019 on proof of proper identification of the respondent No.1 /claimant subject to payment of ad valorem Court fees within four weeks and refund the balance amount through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.
13. The instant appeal is dismissed accordingly.
14. The pending applications, if any, stands disposed of.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

