

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 721 of 2021

Basudb Das Mahapatra

-Vs-

National Insurance Co. Ltd. Anr.

For the Appellant/claimants : Mr. Krishanu Banik

For the Respondents/ : Mr. Sanjay Paul

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 are present.

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, 3rd Court, Additional District and Sessions Judge, Tamluk, Purba Medinipur, being MAC Case No. 171 of 2014 praying for compensation of Rs. 6,00,000/- for the grievous injuries sustained in a road traffic accident on 05.10.2013. At about 10.30 p.m., while the victim was riding his bicycle from Contrai to Chhatradhara along with the left-side moram portion of the Contai Digha pitch road, and upon reaching near Buriband, the offending vehicle, a motorcycle bearing registration No. WB-32C/2020, came at an excessively high speed from Contai side in a

rash and negligent manner, endangering human life and safety, and dashed the victim from behind along with his bicycle with great force. As a result, the victim sustained grievous injuries all over his body, particularly on the head, including multiple cerebral contusions and infected scalp wounds. He was immediately taken to Contai S.D.Hospital and was subsequently shifted to Apollo Gleneagles Hospital, Kolkata where he was admitted from 06.10.2013 to 25.10.2013 for further treatment. Thereafter, he continued to receive treatment from private doctors and remains under medical care.

4. The National Insurance Co. Ltd. Contested the aforesaid MAC case.
5. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and dismissed the application for claim.
6. The Learned Advocate representing the appellant/claimant submitted that the claim application was dismissed on the ground of involvement of the offending vehicle. There was no eye witness to have witnessed the accident as well as on the ground of contributory negligence.
7. The Learned Advocate representing the respondent No.1/insurance company submitted that the complaint was lodged after three months from the date of the accident and the claim application was filed in the year 2014 after lapse of considerable period from the occurrence of the accident.
8. Heard the contrary submissions of the learned Advocates representing both the parties.

9. The complaint dated 24.01.2014 stated the victim to have been hospitalised from 06.10.2013 till 25.10.2013. The victim had filed relevant documents and medical bills to support his hospitalisation at Appolo Gleneagles Hospital, Kolkata. The delay in filing the complaint subsequent to the injury suffered by the victim shall not frustrate his case wherein the charge-sheet had been submitted after completion of the investigation prima facie establishing the role of the offending vehicle to have been involved in the occurrence of the accident. The victim himself appeared and deposed to have sustained the injury out of the accident supported by the evidence of P.W.2 and P.W.3 with regard to the medical papers and documents filed by the claimant, the visibility was marked as Ext.7 since the charge-sheet had prima facie mentioned the occurrence of the accident with the involvement of the offending vehicle. The learned Tribunal was not justified in considering false, concocted and fabricated complaint to have been lodged for claiming compensation. The accident occurred in the year 2013 and considerable time period had lapsed from the date of the occurrence of the accident. Therefore, this Court will decide the compensation to be paid to the victim following the principles laid down in National insurance company Ltd. Vs. Pranay Shetty & Anr. The victim claimed himself to be a “mason”. Considering the fiscal index prevalent at the time of the occurrence of the accident, the notional income of Rs. 3000/- is considered. The age of the victim was 27 years at the time of the accident. The victim incurred physical disability to the extent of 40%. The medical bills were submitted to the extent of Rs.

4,30,475/-. There was a scope of renewal of his physical disability from time to time. The disability certificate mentioned “right upper limb weakness which was to be reviewed after five years which was not grave enough to incapacitate him for his entire life time. The victim is entitled to loss of income for six months, medical expenses and pain and suffering.

Monthly Income	Rs. 3000/-
Six Month income (3000 x 6)	Rs. 18,000/-
Medical Expenses	Rs. 4,30,475/-
Pain and Suffering	Rs. 10,000/-
Entitlement	Rs. 4,58,475/-

10. The appellants/claimants are entitled to a sum of Rs. 4,58,475/- along with interest at the rate of 6%per annum to be paid from the date of filing of the claim application till the date of realization.
11. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 4,58,475/- along with interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within six weeks from the date of passing of this order.
12. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same to the present appellant/claimant in MAC Case No. 171 of 2014 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court's fees.
13. The instant appeal is disposed of accordingly.

14. The pending applications, if any, stands disposed of.
15. The TCR be sent down to the concerned Tribunal forthwith.
16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)