

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT(MV) 156 of 2023

**National Insurance Co. Ltd.
Versus
Meghana Sarkar & Ors.**

For the Appellant

Insurance co.

: Mr. Rajesh Singh

For the Respondent Nos. 1 to 2
claimants

: Mr. Ashique Mondal

Heard on & Judgment on

: 29th July, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 16th December, 2022 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, Fast Track 1st Court, Asansol in M.A.C. Case No. 50 of 2017.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of death of the victim in

an accident which occurred on 02.07.2016 at about 8.30 a.m. at G.T. Road near Ushagram Durga Mandir within the jurisdiction of Asansol (S) police station with the involvement of the offending vehicle being Maruti Omni Bus bearing registration No. WB-54A/2622 which hit the motor cycle driven by the victim at an exceeding speed rashly and negligently whereby the victim fell across the road and died on the spot.

4. Learned Advocate representing the appellant/insurance company submitted that the accident occurred on 2nd July, 2016. However, the complaint was lodged on 15th August, 2016 after a delay of 43 days though the police station was situated at a place to have been accessible by the complainant and her family members within five minutes which raised suspicion of the offending vehicle to have been falsely implicated in the instant case as an afterthought. Therefore, on the ground of non involvement of the appellant/insurance company should be exonerated from its liability to pay the compensation award. More-over, the Learned Tribunal has not deducted the sum of Rs. 8675/- from the entire yearly income as mentioned in the income tax return pertaining to other sources of business. It was further submitted that the complainant wife of the victim pursued the business of vehicles supplied on rent and hire.

Therefore, the loss of income towards managerial cost should have been considered.

5. The Learned Advocate representing the respondent Nos. 1 and 2/claimants submitted that the learned tribunal considering each and every aspect had reasonably pronouncing the impugned judgment and order which need not be interfered with.
6. Considered the rival contentions of the respective parties.
7. 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 appellant/insurance company, this Court restricts itself only to the points agitated by the Learned Advocate representing the appellant/insurance company as well as respondent No.1 & 2/claimants. The complaint filed by the complainant wife marked as Ext.2 had explained the reason for delay in filing the complaint owing to the grief, dismay and physical ailments of the complainant as well as the time consumed in providing medical treatment of her son to have been adequately explained and not improbable under any consideration. The deposition of P.W.3 being the Inspector of Income Tax Department at Asansol revealed three certified

copies of the income tax return pertaining to the assessment year 2015-16 to have been submitted before the Learned Tribunal and marked as Ext. 15 collectively. The order of proceeding under Section 143(1) of the Income Tax Return had been marked as Ext. 16 collectively which the documents issued after assessment. The document marked as Ext. 15 collectively stated the annual income of the victim to be Rs. 2,65,840/- inclusive of the business as well as income from other sources which had been rightly considered by the Learned Tribunal in assessing the compensation amount. The impugned judgment and order is well reasoned and this Court is not inclined to interfere with the same.

8. Accordingly, the instant appeal is dismissed.
9. The interim order, if any, stand vacated.
10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 40,25,448/=(Rs. 25,000 + 40,00,448) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
11. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same directly to the bank accounts of the present respondent Nos. 1 and 2/claimants as mentioned in the award passed by the learned

Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, Fast Track 1st Court, Asansol in M.A.C. Case No. 50 of 2017 on proof of proper identification of the respondent Nos. 1 and 2/claimants subject to payment of ad valorem Court's fees within four weeks and refund the differential amount , if any, through a cheque to the learned advocate for the insurance company for the accounts of the insurance company. The office of the Learned Registrar General, High Court at Calcutta will instruct the respondent No.1 and 2/claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. AR. Ct.