

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 563 of 2022

Joydev Pramanick

-Vs-

Magma HDI General Insurance Co. Ltd. &Anr.

For the Appellants : Mr. Amit Ranjan Roy

For the Respondents : Mr. Rajesh Singh

Heard and Judgment on : 07.05.2025

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.
1. The learned advocates representing both the parties are present.
2. The claimant, Joydev Pramanick, filed an application under Section 166 of the Motor Vehicles Act before the Motor Accident Claims Tribunal, claiming compensation to the tune of Rs. 7,00,000/- for the injuries sustained by him in a motor accident that occurred on 03.08.2015 at about 4:30 PM. The accident took place near Town Hall when the offending vehicle, a lorry bearing Registration No. WB-25B-0373, was being driven at a high speed without blowing the horn and in a manner endangering human life and public safety, and it clashed the victim.
3. As a result of the accident, the victim had sustained severe injuries and was immediately admitted to Islamia Medical Institute, where he treated from 03.08.2015 to 05.08.2015. He was subsequently admitted at

Calcutta National Medical College and Hospital as an indoor patient from 08.08.2015 to 09.08.2015 for further medical care.

4. It was submitted that the accident had occurred solely due to the rash and negligent driving of the driver of the offending vehicle, and the victim had incurred medical expenses amounting to Rs. 70,000/-.
5. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him.
6. The respondents, Magma HDI General Insurance Co. Ltd. contested the aforesaid MAC case.
7. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded a sum of Rs. 5,21,500/- as well as an interest of 6% from the date of filing the case till the realization of the amount.
8. The Learned Advocate representing the Appellant/claimant submitted the appellant received severe injuries and right leg of the appellant had been amputated, which led to the permanent disability of 100%, which was reduced to from 80% to 60%. The learned Tribunal did not grant any compensation on account of future prospect, future treatment, cost of attendant from the date of accident till he would be alive, conveyance charges, diet, pain and suffering and mental agony. The issue of pecuniary and non-pecuniary losses were not considered.
9. The learned Advocate representing the respondent no.1/insurance company submitted the evidence towards loss of income could not be proved and a sum of Rs.1,00,000/- was granted towards pain and suffering and with regard to the age of the victim future prospect to the extent of 10% should have been granted.

10. Heard the submissions of the learned advocates representing the respective parties and considered the materials on record.

11. 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 as agitated by the Learned Advocates representing the both the parties.

12. In view of the above observation of the Hon'ble Supreme Court in the decisions cited in ***National Insurance Company Ltd. Vs. Pranay Shetty & Anr.***¹ and ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr***² the impugned award is modified as follows: -

Annual Income	Rs.60,000/-
Add 10% Future Prospect	Rs. 6,000/-
Add 80% disability corresponding to 80% loss of earning capacity	Rs.66,000/-
Add Multiplier	Rs.52,800/-
	X 11/-
Add pain and suffering as granted by the Tribunal	Rs.5,80,800/-
	Rs.1,00,000/-
Add medical expenses as granted by the Tribunal	Rs.6,80,000/-
	Rs. 25,000/-
Total	Rs.7,05,000/-

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Less awarded by Tribunal		Rs.5,21,500/-
Entitlement		Rs.183,500/-

13. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 5,21,500/-. The appellant/claimant is entitled to receive the balance amount of Rs.1,83,500/- 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.
14. The learned advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 1,83,500/- along with interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within six months from the date of passing of this order.
15. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellant/claimant as mentioned in the award passed by the Court of Motor Accident Claims Tribunal, Judge, Fast Track Third Court, Alipore in MAC Case 74 of 2016 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court's fees within four weeks.
16. The instant appeal is disposed of accordingly.
17. The Trial Court Records shall be sent down to the concerned tribunal forthwith.
18. Copy of the order be sent to the Department as well as concerned tribunal for information.

(Ananya Bandyopadhyay, J.)

S.R. (ARC)