

Form No. J(2)

District: Paschim Medinipur

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Ananya Bandyopadhyay

FMA 607 of 2024

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IA NO: CAN/1/2024,

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IA NO.: CAN/2/2024

NATIONAL INSURANCE CO. LTD.

VS.

SEK SOPIRA AND ORS.

Mr. M. P. Chakraborty

Ms. Ratnadipa Karmakar

... for the appellant/Insurance Company

Mr. Saswata Bhattacharya

Mr. Aninda Bhattacharya

... for the respondents/claimants

Heard on : 07.07.2025

Judgment on : 07.07.2025

Ananya Bandyopadhyay J.

1. Both the Learned Advocates representing the respective parties are present in Court today.

2. The instant appeal had been filed against judgment and order passed by the Learned District Judge, Motor Accident Claims Tribunal, Paschim Medinipur in M.A.C. C. No. 28 of 2021 under Section 166 of the Motor Vehicles Act.

3. An application under Section 166 of the Motor Vehicle Act, had been filed by the respondents/claimants which occurred on 18.02.2020 at about 9:00 PM when the victim Sk. Amtajul attending nature's call near the Bridge of Capasia village under P.S Gopiballavpur was hit by the offending vehicle being Maruti car bearing registration No.WB-36A-7654 approaching from the Santnasole to Gopiballavpur at excessive speed, rashly and negligently losing control of the said vehicle. The victim Sk. Amtajul suffered grievous injuries and was immediately shifted Gopiballavpur Hospital and subsequently referred to Midnapore Medical College and Hospital, unfortunately, the attending doctor declared him dead.

4. Learned advocate representing the appellant Insurance Company submitted to have filed the instant appeal exclusively on the ground of filing of a delayed complaint. It was further submitted that the complaint under Section 156(3) of the Code of Criminal Procedure was filed after a lapse of 153 days from the date of occurrence of the accident.

5. Learned advocate representing the respondents/claimants submitted that the averments in the application under Section 156(3) of the Criminal Procedure Code vividly stated the reason for delay in filing the application due to refusal on the part of the Police authorities to accept the complaint and subsequently register a case to that effect. Moreover, the Learned Tribunal had discussed the

issue in the impugned judgment and order accepting that the delay in filing complaint was not deliberate.

6. Since, the issue involved in this appeal was restricted only to the extent of filing of complaint at a later date, this Court concedes to the observation of the Learned Tribunal in the impugned judgment as mentioned as below :-

“ From the evidence and documents it is established that the accident occurred on 18.02.2020 and afterwards Sek Sopir father of the deceased Sk. Amtajul lodged the F.I.R after three days of the accident before the I.C Gopiballavpur P.S and for which the Gopiballavpur P.S Case No.63/2020 dt. 21.07.2020 was initiated against the driver Biswajit Ghosh of the vehicle being No.WB-36A-7656(Maruti Alto), the explanation of delay is clearly mentioned in the body of the COMPLAINT Exhibit-2.”

7. Since the quantum and other issues had not been agitated with regard to compensation awarded the reason for delay to have been occasioned was adequately expressed. This Court is not inclined to interfere with the impugned judgment and order .

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 9,76,916/=(Rs. 25,000 + 9,51,916/-) through two separate cheques as per challan filed by the Learned advocate representing the appellant/insurance company.

9. 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 directly to the bank accounts of the respondent Nos. 1 to 3/claimants as mentioned in the impugned judgment and award passed by the Learned District Judge, Motor Accident Claims Tribunal, Paschim Medinipur in M.A.C. C. No. 28 of 2021 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees and refund the differential amount if any, to the Learned Advocate representing the appellant insurance company for the accounts of the appellant/insurance company. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

10. The instant appeal is dismissed accordingly.
11. The pending applications, if any, stands disposed of.
12. The interim order if any stand vacated.
13. The TCR be sent down to the concerned tribunal forthwith.

(**Ananya Bandyopadhyay, J.**)