

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 2708 of 2016

Gourab Das

Versus

M/s. National Insurance Company Ltd. & Anr.

For the Appellant : Ms. Sima Ghosh

For the Respondent No.1/
Insurance co. : Mr. Sanjay Paul

Mr. Jaita Ghosh

Heard & Judgment on : 16th January, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 29th January, 2016 passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Berhampur, Murshidabad in M.A.C. Case No. 199 of 2013.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimant due to the accident which occurred on 4th September, 2012 at about 17.00 hrs. With the involvement of the offending vehicle bearing registration No. WB-57/3699 which

approached at an exceeding speed rashly and negligently hit the victim who was returning home from S.S. College and was immediately transferred to Jiaganj P.H.C. wherefrom he was referred to Berhampore New General Hospital. Thereafter, shifted to N.R.S. Medical College and Hospital for proper treatment.

4. Learned Advocate representing the appellant/claimant submitted that the Learned Tribunal had granted a lump sum amount of Rs. 25,000/- as the compensation without considering the age of the victim and nature of the disability suffered by him. The appellant/claimant is entitled to an enhance sum of compensation considering the gravity of the injury suffered by him as well as his tender age.
5. The learned Advocate representing the respondent No.1/Insurance Company submitted that the victim did not suffer any permanent disability and sufficient document was not produced in terms of his medical expenses. Therefore, the Learned Tribunal was justified in awarding a sum of Rs. 25,000/- as compensation.
6. 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 of compensation to be awarded to the victim

whose physical disability affected out of an accident had not been assessed by any Medical Board. In the year 2012 considering the fiscal index and the age of the victim to be of 18 years, the sum of Rs. 25,000/- as consolidated amount appeared to be modicum and the same is modified to the extent of Rs. 1,00,000/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its actual realization.

7. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 25,000/-. The appellant/claimant is entitled to a sum of Rs. 75,000/- along with interest as aforesaid.
8. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 75,000/- along with 6 % per cent interest per annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order.
9. 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 learned Judge, Motor Accident Claims Tribunal, 4th Court, Berhampur, Murshidabad in M.A.C. Case No. 199 of 2013 on proof

of proper identification of the appellant/claimant subject to payment of *ad valorem* Court's fees.

10. The instant appeal is disposed of accordingly.
11. The pending applications if any stands disposed of.
12. The TCR be sent down to the concerned Tribunal forthwith.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m.