

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1473 of 2024

**Satya Narayan Saha
Versus
Saugata Saha & Ors.**

For the Appellant : Mr. Ashique Mondal,
Mr. Sujit Saha.

For the Respondent No.3/
Insurance Company : Mr. Rajesh Singh.

Heard & Judgment on : 2nd August, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/claimant and the respondent No. 3/Insurance Company are present in Court.
2. The instant appeal had been filed against the judgment and award dated 11.10.2023 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, 4th Court, Berhampore, Murshidabad in M.A.C. Case No. 44 of 2010.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimant who had suffered an injury to the extent of 85% having undergone amputation of his right hand above elbow in an accident which occurred on 28.10.2009 at about 16:00 hours he being a passenger of the offending vehicle being a bus bearing registration no. WBR-2252 had got down from the same on his way on the muddy road on the State Highway. The same bus after increasing its speed hit the victim who sustained injuries therefrom and was transferred to Gokarna Hospital wherefrom he was transferred to Berhampore New General Hospital. On aggravation of his medical condition he was transferred to Bhattacharya Orthopedics and Related Research Centre (P) Limited.
4. The Learned Advocate representing the appellant/claimant submitted that the Learned Tribunal failed to consider the component of future prospect to the extent of 15 percent while deducing the compensation awarded. Moreover, failed to grant an appropriate amount towards pain and sufferings in spite of a modicum amount to Rs.50,000/-.
5. The Learned Advocate representing the respondents/Insurance Company submitted that the victim/claimant was not entitled to receive any sum towards the element of future prospect since the same did not incur any loss of income having been in service on

the date of the accident and retired subsequently receiving pension regularly thereon. The Tribunal had considerably granted an adequate amount towards pain and sufferings since the accident occurred in the year 2009 and this Court should not interfere with the same.

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.3/insurance company, this Court restricts itself only to the extent of determine the above-mentioned issues.
7. Considered the rival contentions of the respective parties.
8. The evidence of the victim as P.W. 1 in his cross-examination revealed that he was no longer in service since he retired in June, 2011 and was receiving his pension. The document marked as Exhibit-6 stated the victim to have received Rs.18,444/- as salary for the month of October, 2009 being the month in which he suffered the accident. (Exhibit 6). The document marked as Exhibit-7 stated the claimant to have received a sum of Rs.20,706/- as salary for the month of January, 2011 being the date of his retirement. (Exhibit-7). A comparison of both the documents evinced the fact that the claimant did not suffer any loss of income and had been in service till the date of his retirement being entitled to retirement benefits and indirect

source of income in the form of the pension. Accordingly, the victim/claimant is not entitled to any compensation towards future prospect since he had being similarly circumstanced as though he had been a normal person without incurring any expenditure. Considering the date and year of the accident the Learned Tribunal had granted a sum of Rs.50,000/- towards pain and suffering and this Court is also not inclined to interfere with the same.

9. The instant appeal is disposed of accordingly.
10. The interim order, if any, stand vacated.
11. The pending applications if any stands disposed of.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

Srimanta. A.R.(Ct.)