bm Form No. J(2)

**District: South 24 Parganas**

# IN THE HIGH COURT AT CALCUTTA

**Civil Appellate Jurisdiction**

**Appellate Side**

**Present :**

**The Hon'ble Justice Ananya Bandyopadhyay**

**FMA 758 OF 2021**
**MADAN BAG**
**VS.**
**ICICI LOMBARD GENERAL INSURANCE CO. LTD. & ANR.**
**WITH**
**COT 152 OF 2024**
**CHHAYA BAG**
**VS.**
**MADAN BAG AND ANR**

Mr. Jayanta Kumar Mondal
... for the appellant/Owner
Mr. Parimal Kumar Pahari
... for the respondent no.1/Insurance Co.
Mr. Ashique Mondal
Mr. Shahmeraz Alam
... for the respondent no.2/claimant(COT 152 of 2024)

Heard on : 02.07.2025

Judgment on : 02.07.2025

**Ananya Bandyopadhyay J.**

1. Learned advocate representing the respondents/claimants submitted to "not press" the cross-objection No.152 of 2024 and the same has been "dismissed" as "not pressed".

2. Learned advocate representing the appellant i.e. the owner of the offending vehicle submitted to have filed the instant appeal

exclusively on the ground that the learned tribunal had cast the liability of disbursing the entire compensation amount on the appellant/owner considering the Insurance policy issued in favour of the owner was effective from 26.01.2016 till 25.01.2017. Since, the accident occurred on 26th January, 2016 prior to the date of issuance of the Insurance policy the respondent/Insurance Company was not liable to disburse the compensation amount. However, the owner was liable to pay the compensation to the tune of Rs.1,70,000/- along with interest to be paid at 9% per annum and also the default interest at the rate of 12% per annum.

3. Learned advocate representing the respondent Insurance Company submitted the accident to have occurred at 12:30pm on 25th January, 2016 and therefore, the Insurance Company was not entitled to pay the compensation awarded since the policy in question had been effective from 26th January, 2016 till the mid night of 25th January, 2017.

4. Learned advocate representing the respondent/claimant referred to a decision cited in (2024) 2 SCC 427, inter alia, stating that the date of issuance of the Insurance policy should be considered to confer liability on the insurance company to pay the compensation.

5. **Since** the occurrence of the accident, the driving license, 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 consider the point

agitated by both the parties. A document marked as exhibit-13/3 as well as the exhibit-14 had been issued by the Respondent Insurance Company Income Tax Department beyond the control of either of the victim or the control the driver of the offending vehicle and such submission of the learned advocate representing the appellant/Insurance Company cannot be accepted. In view of the above observation the impugned judgment and order passed by the learned tribunal is not interfered with.

6. Heard the rival contention of the learned advocate representing all the parties. The Hon'ble Supreme Court in Reliance Life Insurance Company Ltd. & Anr. vs. Jaya Wadhwani and Branch Manager, Reliance Life Insurance Company Ltd. vs. Usha Soni had, inter alia, observed that:-

> " *In the present appeals, we do not find any such issue of back dating but the date of issuance of the policy would be the relevant date for all purpose are and not the date of proposal or the date of issuance of the receipt. In view of the above, the stand taken by the appellant is approved. The impugned orders are thus liable to be set aside.*"

7. In the instant case the Insurance Policy was issued on 25th January, 2016 to be effective from 00:00 26.01.2016 to 25.01.2017 mid night. The accident incurred by the victim was on 25.01.2016. The date of accident coincided with the date of issuance of the Insurance Policy and in view of the observation of the Hon'ble Supreme Court as cited above the Insurance Company is liable to pay the compensation awarded.

8. This court inclined to interfered with the computed amount of compensation to the extent of Rs.1,70,000/- however, will modify the rate of interest so awarded to the extent of 6% per annum from the date of filing of the application under Section 166 of the M.V Act till the date of its realisation.

9. The statutory amount of Rs.25,000/- which has been deposited by the owner of the offending vehicle at the office of the Registrar General of High Court, Calcutta be refunded along with the accrued interest thereon through a cheque.

10. In view of the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.[1] the appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

11. Appeal being FMA 758 stands disposed of.

12. Urgent Photostat Certified copy of this Judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

**(Ananya Bandyopadhyay, J.)**

[1] 2025 INSC 361