

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1007 of 2024

With

CAN 1 of 2024

The Oriental Insurance Co. Ltd.

-vs.-

Sambhu Shee & Anr.

For the Appellant : Mr. Parimal Kumar Pahari

For the Respondents : Mr. Soujanya Bandyopadhyay
Ms. Babita Dey

Heard & Judgment on : 08.05.2025

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.
2. The Learned Advocates representing the appellant/Insurance Company as well as respondents/claimants are present.
3. The instant appeal had been preferred by the appellant/Insurance Company against the impugned judgment and award dated 14.03.2024 passed by the Learned Judge, Motor Accident Claims Tribunal, Bench No. VIII, City Civil Court, Calcutta in M.J.C. Case No. 1041 of 2008.

4. The claimant, being the victim, filed an application under Section 163A of the M.V. Act in the Court of the Motor Accident Claims Tribunal, Bench No. VIII, City Civil Court, Calcutta, being M.J.C. Case No. 1041 of 2008, claiming compensation of Rs. 2,50,000/- along with pendente lite costs and interest for the permanent disability suffered due to a road traffic accident on 14/07/2007. The offending vehicle, a bus bearing Registration No. WB-29/6544, proceeding on Digha-Kanthi Road from Digha side towards Kanthi, dashed the claimant near Chal Khola Bus Stand under Ram Nagar Police Station, as a result of the driver losing control while driving in a rash and negligent manner. Due to the said accident, the victim, Shambhu Shee, sustained serious injuries and was initially admitted to Contai S.D. Hospital and later transferred to Medical College & Hospital, Kolkata for further treatment. The claimant incurred medical expenses amounting to Rs. 40,000/-. At the time of the accident, the claimant was 20 years old and used to earn Rs. 3,000/- per month. Due to the injuries sustained in the accident, the claimant became permanently disabled and unable to continue his employment, which led to the filing of the present claim.
5. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him.
6. The Oriental 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. 3,49,160/- as well as an interest of 9% from the date of filing the case till the realization of the amount.

8. Considered the submission of the Learned Advocates representing for both the parties.
9. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the appellant/insurance company, this Court restricts itself only to the extent of granting compensation considering the judgment of the Hon'ble High Court in Urmila Halder v. The New India Assurance Company Ltd¹. and the same being affirmed by the Supreme Court in Special Leave Petition² and the notification dated 22nd May, 2018, in the second schedule 1(b) in case the disability 35% and the Hon'ble Supreme Court, the second schedule 1(b) is as follows: -

"Accidents resulting in permanent disability:

Compensation payable shall be =
(Rs.5,00,000/- x percentage disability as per schedule I of the Employee's compensation Act, 1923 (8 of 1923).

Provided that the minimum compensation in case of permanent disability of any kind shall not be less than fifty thousand rupees."

10. The respondents/claimants are entitled to a compensation of 35% of Rs.5,00,000/- along with interest at the rate of 6% per cent per annum

¹ 2019(2)TAC 143

² Special Leave Petition(Civil) No. 6260 of 2019

from the date of filing of the claim application till the date of actual realization.

11. Learned Advocate for the appellant/insurance company submitted that the Appellant/Insurance Company had already deposited the sum of Rs.6,47,964/-in the office of the Registrar General, High Court, Calcutta.
12. The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same to the present respondent No.1 /claimant as mentioned in the award passed by learned Judge, Motor Accident Claims Tribunal, Bench No. – VIII, City Civil Court, Calcutta in M.J.C. Case No. 1041 of 2008 on proof of proper identification of the respondent Nos.1 /claimant subject to payment of ad valorem Courts fees and refund the differential amount through a cheque to the learned advocate for the insurance company for the accounts of the insurance company.
13. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the Learned Registrar General, High Court at Calcutta which has already been deposited in the nationalized bank by the office of the Learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company for the accounts of the insurance company.
14. The instant appeal is disposed of accordingly.
15. The interim order if any stand vacated.

16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)