

02.12.2025
Item No.37
Ali
ct. no.9

FMA 496 of 2023

**Animesh Biswas
Vs.
The National Insurance Co. Ltd. & Anr.**

Ms. Sima Ghosh,
Ms. Ankhi Kaya,
Ms. Manoshi Mondal
..... for the appellant/claimant.

Mr. Afroze Alam
.....for the respondent No.1/Insurance Co.

1. Learned advocates for the parties are present.
2. The appellant before this Court was claimant before the learned Trial Court under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the Judgment and Award dated 7th January, 2023 passed by the learned Additional District Judge, 3rd Court, Berhampore, Murshidabad in MAC Case No. 201 of 2013.
3. The case of the appellant/claimant before the learned Trial Court may be summed up thus:
'On 11.04.2011 at about 11 hours one truck bearing Registration No. WGQ-1207 coming from Sagarpara towards Jalangi in rash and negligent manner and with excessive speed dashed Animesh Biswas, then aged about 11years, at Ghoshpara Bridge, under P.S. Jalangi, Murshidabad. The victim sustained severe bleeding injujries. Local people shifted him to

Sadikhandiar PHC wherefrom he was referred to Berhampore New General Hospital for treatment. Thereafter, the victim was admitted in Jeevan Deep Special Care & Diagnostic Centre Pvt. Ltd. at Berhampore for his treatment. The matter was reported to the police authority and case was instituted. The victim has been disabled and lost his physical capacity and he was a student at the time of accident.'

4. The respondent No. 1/National Insurance Company Ltd contested the case by filing written statement. Issues were framed.
5. Upon considering the evidences and upon hearing the learned advocates for the parties the learned Trial Judge was pleased to dispose the claim case by observing and directing as follows:

"hence, it is

O R D E R E D

That the instant Motor Accident Claims Case be and the same is allowed on contest without cost against the opposite party No. 2 and ex parte without cost against opposite party No. 1.

It is hereby declared that the petitioner, namely Animesh Biswas shall get a sum of Rs. 3,02,500/-as compensation along with 6% simple interest per annum on the said amount of compensation to be calculated from the date of filing of this case i.e. from 23.04.2013 from the Opposite Party No. 2, namely, The National Insurance Co. Ltd.

The Opposite party No. 2 is hereby directed to pay the aforesaid amount of compensation along with the interest as decided to the claimant by A/C Payee cheque in the name of the petitioner within two months from the date of this judgment.

Let copies of this award be delivered to the parties concerned within fifteen days from this day."

6. The appellant/claimant being aggrieved by the learned Trial Judge has come up with the instant appeal. The grounds on which the judgment of the learned Trial Court is assailed is that the learned Trial Court has assessed the yearly income of the claimant/appellant as Rs.15,000/- which is not at all reasonable as the appellant/claimant was a student at the time of incident.
7. It is further submitted by the learned advocate for the appellant that the compensation awarded is a very meagre. Considering the income which is taken into consideration and the general damage which is awarded.
8. Learned advocate relies upon two decisions passed by a learned Coordinate Bench of this Court-**1) F.M.A. 83 of 2024 (Jalema Bibi Vs. National Insurance Company Limited & Ors) and 2) F.M.A. 1291 of 2010 (Sri Raj Kumar Das @ Raju Das Vs. United Insurance Company Ltd. & Anr.)**
9. Learned advocate for the respondent No.1/ National Insurance Company Ltd. submits that as the victim

claimant was a student the learned Trial Judge rightly assessed the notional income as Rs. 15,000/- per year.

10. Upon hearing the learned advocates and considering the facts of the case the judicial decisions relied upon and considering the fact that the victim was a student of 11 years this Court is of the view that the monthly income ought to have been considered at Rs. 3,000/- per month. In the event Rs. 3,000/- per month is considered, the yearly income comes to Rs. 36,000/-. As the victim suffered permanent disability and considering the age the future prospect should be at least 40% thus, 40% is added in the annual income and it comes to Rs.14,400/-. Thus total annual income comes to Rs.50,400/-.

11. However, as the disablement is 90%, Rs.50,000/- is taken into consideration. The victim at the time of accident was 11 years thus, the multiplier shall be 15.

12. Thus, the compensation on account of disablement comes to Rs.7,50,000/-. In addition the victim is entitled to get Rs.1,50,000/- for pain and suffering.

13. Thus, Rs.9,00,000/- (Rupees Nine Lakh) is the total compensation which the appellant/claimant is entitled from the respondent No. 1/National Insurance Company Ltd.

14. Thus, the order passed by the learned Trial Judge stands modified. The respondent No. 1/National Insurance Company Ltd. shall pay Rs. 9,00,000/- (Rupees Nine Lakh) to the appellant within a period of eight weeks from date along with interest @ 6% per annum from the date of filing of the claim case till the date of this order.

15. In the event the compensation which was awarded by the learned Trial Court of Rs.3,02,500/- is already paid, the balance amount along with interest from the date of filing till the date of this order shall be paid to the claimant/appellant.

16. With the aforesaid observations, the instant **FMA 496 of 2023** is disposed of.

17. Urgent Photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)