

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 956 of 2024

ICICI Lombard General Insurance Co. Ltd.

Vs.

Mem Rani Bibi & Ors..

For the Appellants : Mr. Saswata Bhattacharya

For the Respondents : Mr. Krishanu Banik,
Mr. Tathagata Banik

Heard & Judgment on :

Judgment on : 13.05.2025

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 respective parties are present.
3. The instant appeal had been filed against the judgment and award dated 13.03.2024 passed by the learned Additional District and Sessions Judge, Motor Accident Claims Tribunal, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 94 of 2020.
4. Two claimants of the deceased victim filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Suri, Birbhum being MAC Case

No.94/2020, claiming an award of Rs. 5,00,000/- whereby the victim expired due to a road traffic accident on 17/11/19. The victim was a pillion rider on the offending vehicle when due to rash and negligent driving of the driver, the vehicle crashed into a pedestrian, causing the victim to fall down and become grievously injured. The victim expired due to the accident.

5. On the basis of a written complaint, Nalhati PS Case No. 8/2020 dated 14/01/2020 was initiated.
6. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him.
7. ICICI Lombard General Insurance Company Ltd. contested the aforesaid MAC case.
8. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded Rs 5,00,000+/- with interest payable at 6%.
9. The learned Advocate representing the appellant/Insurance Company submitted that filing of a delayed FIR frustrated the liability of the Insurance Company to comply with the compensation awarded. Moreover, the victim being a pillion rider was not covered under the Insurance policy concerning the amount of premium paid. The learned Tribunal wrongly awarded penal interest to the extent of 10 per cent.
10. The learned Advocate representing the respondents submitted that the multiplier method had not been applied in the instant case.

11. Considered the rival contentions of the learned Advocates representing both the parties and on perusal of the contents of the impugned judgment and order it appears that an application under Section 164 of the Motor Vehicles Act had been filed which had statutorily stipulated the compensation to be Rs.5,00,000/- in case of death irrespective of age and income of the victim. Accordingly, the appellant/Insurance Company is liable to pay a sum of Rs.5,00,000/- along with an interest at the rate of 6% per annum per annum from the date of filing of the MAC Case No. 94/2020 till the realization of the awarded amount. The default interest to the extent of 10% per annum as mentioned in the impugned judgment and order is to be negated.
12. The learned advocate for the appellant/Insurance Company is to deposit a sum of Rs.5,00,000/- 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 eight weeks from the date of passing of this order.
13. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the respondents/claimants as mentioned in the award passed by the learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court, Suri, Birbhum in M.A.C.C No. 94 of 2020 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court's fees.

14. The instant appeal is disposed of accordingly.

15. The Trial Court Records shall be sent down to the concerned tribunal forthwith.

16. Copy of the order be sent to the Department as well as concerned tribunal for information.

(Ananya Bandyopadhyay, J.)