

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 905 of 2024

**National Insurance Company Limited
Versus
Sikha Singh & Ors.**

For the Appellant : Mr. Rajesh Singh.

For the Respondents : Mr. Amit Ranjan Roy.

Heard & Judgment on : 8th April, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 31.01.2024 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court – II, Tamluk, Purba Medinipore in M.A.C. Case No. 183 of 2021.
3. An application under Section 166 of the Motor Vehicles Act had been filed due to the death of the victim in an accident which took place on 20.02.2021 at about 9:30 P.M. on NH-41 near

Rajarampur Bank Sura about 8 k.m. south from Mahishadal with the involvement of the offending vehicle being a 'Scorpio' bearing registration no. WB-30L/2708 which proceeded at an exceeding speed rashly and negligently hit the victim riding his motorcycle bearing registration no. WV34BH/2170 eventually resulting in his death having sustained grievous injuries over his person at Purba Medinipore District Hospital at Tamluk.

4. The Learned Advocate representing the appellant/Insurance Company aggrieved by the complaint to have lodged after 12 days of occurrence of the accident raising the issue of non-involvement of the offending vehicle in the said accident. Further a single pay slip issued in favour of the victim prior to the date of his death in the month of January, 2021 was confronted on the ground that the income of the victim could have been either more or less than the amount stipulated therein.
5. The learned Advocate representing the appellant/Insurance Company sought for the interference of this Court to deal with the aforesaid issues agitated by him. The learned Advocate representing the appellant/Insurance Company further submitted that the widow of the deceased victim was receiving a sum of Rs. 57,540/- as pension disentitling her to the claim amount as per the application under Section 166 of the Motor Vehicles Act.

6. The learned Advocate representing the respondents/claimants submitted to have filed the cross-objection on the ground of interest to have been granted from the date of recording of evidence till the date of actual realization of the compensation amount contrary to the mandated period from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its realization.
7. Since the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent agitated by the learned Advocates representing both the parties. Considered the rival contention of the learned Advocates as aforesaid. The complaint filed by the brother of the deceased victim marked as exhibit 1/1 categorically stated being engaged in the funeral and subsequent rituals on the death of the brother of the victim, there had been a delay in filing the complaint to the extent of 12 days. The delay of 12 days being explained in the written complaint filed by the brother of the deceased victim which had been marked exhibit 1/1 before the Tribunal was evidently conspicuous of the reasons which cannot be improbable. The last pay slip marked as exhibit 9 issued by the office of Block Livestock Development Officer, Diamond Harbour – I indicated

the deceased victim to have been in public service which evince the fact of the victim to be in permanent service receiving the salary of equal amount on each and every month, contrary to the victim therein involved in any private service or at a business of his own. Therefore, there had been a consistency in receipt of salary of equal amount as reflected in the slip marked exhibit 9. The learned Tribunal erred in granting interest at the rate of 6% from the date of recording of the evidence till the date of its actual realization of the compensation awarded.

8. This Court is not inclined to interfere with the compensation awarded by the learned Tribunal. However, the impugned judgment and order is modified to the extent that the compensation awarded by the learned Tribunal as aforesaid should bear an interest at the rate of 6% per annum from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its realization.
9. The learned Advocate representing the appellant/Insurance Company submits to have paid the compensation awarded along with the interest at the rate of 6% per annum from the date of filing of the evidence till the date of its realization. The balance amount with regard to the interest to be paid, if any, is to be deposited within six weeks at the office of the Learned Registrar General, High Court, Calcutta.

10. The office of the learned Registrar General High Court at Calcutta, shall encash the cheque and thereafter disburse the entire awarded amount so deposited to the present respondents/claimants as mentioned in the impugned judgment of the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court- II, Tamluk, Purba Medinipur in M.A.C. Case No. 183 of 2021 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees.
11. The instant appeal is disposed of accordingly.
12. The pending applications, if any, stands disposed of.
13. 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.)