

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

IA No.: CAN/2/2024

in

FMA 1506 of 2024

The New India Assurance Company Limited

Versus

Radha Devi & Ors.

For the appellant/Insurance Company : Mr. Sanjay Paul

For the respondents/claimants : Mr. Saikat Sen

Heard & Judgment on : 11th June, 2025

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 17.02.2024 passed by the learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, Fast Track, 4th Court, Barasat, North 24-Parganas in M.A.C. Case No. 4388 of 2014 and M.A.C. Case No. 425 of 2013::40 of 2015.

3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed due to the death of the victim in an accident which occurred on 03.05.2013 at about 10.05 hours on the service road near Lake Town Foot Bridge within the jurisdiction of Lake Town Police Station with the involvement of the offending vehicle being a bus bearing registration no. WB- 25B/8794 which at an exceeding speed rashly and negligently hit the victim stationed on the road who sustained severe injuries and expired on the same date at Daffodil Nursing Home.
4. The Learned Advocate representing the appellant/Insurance Company submitted the learned Tribunal had erroneously cast liability on the appellant/Insurance Company to pay the compensation awarded in absence of a valid route permit possessed by the offending vehicle to commute on a particular route contrary to the terms and conditions of the insurance policy. The age of the victim had been mentioned as '47' years in the examination-in-chief filed by P.W. 1 and further to have been mentioned as '65' years in the cross-examination contrary to the age of '47' years and the learned Tribunal should have considered the age of the victim to be '65' years as per the deposition of P.W. 1 in the cross-examination. It was further submitted that

the learned Tribunal had granted an exorbitant rate of interest to the extent of 8% per annum which should be modified.

5. The learned Advocate representing the respondents/claimants submitted that the learned Tribunal after assessing each and every aspect of the claim application including the oral as well as the documentary evidence had rightly assessed the compensation to be awarded and this Court should not interfere with the same.
6. Since the occurrence of the accident, insurance policy, driving licence and other ancillary issues are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of considering the aforementioned issues.
7. The evidence of O.P.W. 1 being an employee at the R.T.O., Barasat stated as follows:-

"I could not bring the road permit of the said bus as the same could not be traced out without getting the permit number.

One report has been submitted by the RTO, Barasat to that effect and I have brought the same. This is the said report dated 27.12.2022.

Let the report of the R.T.O., Barasat dated 27.12.2022 in respect of permit of offending vehicle be marked as Ext. – B,

Normally if the registration of the vehicle is supplied to our office, we can search out the permit of the said vehicle but in this case we could not trace out the permit."

8. During cross-examination he further stated as follows:-

"If the permit of the vehicle is kept in manual register, we need to get the permit number for searching the particulars of the permit.

In the summons issued at the behest of the OP No. 2 from this Tribunal, no permit number was mentioned.

I do admit that if the permit number of the vehicle would have been supplied to our office, we could trace out the permit particulars.

I cannot say without going through the official document as to whether the vehicle number WB25B/8794 has road permit or not."

9. The failure to trace out the permit in absence of a permit number could not indubitably inferred that route permit was not issued in favour of the offending bus to ply on a particular route. Moreover, the age of the victim as per the document marked as exhibit-8 corroborated the age of the victim to be 47 years on the date of the occurrence of the accident. The learned Tribunal has rightly considered the multiplier to be 13 with regard to the age of the victim as aforesaid. However, the compensation awarded

by the learned Tribunal is modified to the extent of granting interest on the compensation awarded at the rate of 6% per annum instead of 8% per annum.

10. In view of the observation of Hon'ble Supreme Court ***in Parminder Singh –Vs.- Honey Goyal & Ors.*** reported in **2025 1 NSC 361** the learned Advocate representing the appellants/claimants is to provide the details of Bank accounts held in the name of the appellants/claimants at the office of the Registrar General High Court at Calcutta for disbursal of the compensation amount 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. The balance amount, if any, is to be refunded and, therefore, a cheque to the learned Advocate representing the appellant/Insurance Company to be transmitted to the office of the appellant/Insurance Company for its records.
11. In the instant case, the appellant/Insurance Company is to pay the compensation awarded and, therefore, recover the same from the owner of the offending vehicle subject to strict proof of its claim before the competent authority.
12. The instant appeal is disposed of accordingly.
13. The pending applications if any stands disposed of.

14. 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)