

Item No. 06

Ct 09

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08.12. 2025

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 900 of 2024
With
IA NO: CAN 3 of 2025

The Oriental Insurance Company Ltd.
Vs
Loknath Chamalagai & Ors.

Mr. Rajesh Singh.
... for the appellant.

Mr. Sshaharayar Alam,
Mr. Saiful Alam.
... for the claimants/respondents.

Learned advocates for the parties are present.

Heard learned advocates for the parties.

This appeal is directed against the judgment and order dated 16.01.2024 passed by the Learned Additional District Judge, First Court-I, Islampur, Uttar Dinajpur in MAC Case No. 140 of 2020.

The learned Trial Judge by the judgment and award dated 16.01.2025 was pleased to dispose of the claim case by observing and directing as follows:-

“Hence it is

ORDERED

That the instant M.A.C. No. 140 of 2020 be and same is allowed on ex parte against OP No.1, Gopal Chouhan and on contest against OP No. 2, the Oriental Insurance Co. Ltd.

The Claimants/Petitioners do get award of Rs.47,38,741/- (Rupees Forty seven lakh thirty eight thousand seven hundred forty one only) in total as compensation along with Simple Interest @ 6% per annum from the date of filing of this claim

application i.e. on and from 26.06.2020 till realization of the award. (The calculation of payment of interest since 26.06.2020 till the date declared as pandemic is exempted).

This order will take effect only upon making payment of the deficit court fees.

The Opposite Party no.2 is hereby directed to pay the amount of compensation along with the interest to the petitioner No.1 by issuing A/C payee cheques of Rs. 11,74,685/- + Rs. 40,000/- (Rs. 12, 14, 685/-) and three A/C payee cheques of Rs. 11,74,685/- in the name of each petitioners within two months hereof id petitioners at liberty to put this order into execution.

Petitioners are directed to deposit the additional court fees on the excess awarded amount of compensation.”

The appellant/ The Oriental Insurance Company Ltd. being aggrieved by the judgment and award passed by the learned Trial Curt has come with the instant appeal.

Heard learned advocates for the parties. Perused the material on record.

Learned advocate for the appellant/ The Oriental Insurance Company Ltd. submits that the claimants/respondents have filed the income tax return for the year 2018 and 2019 and not the income tax return for the year 2019 to 2020. During the pendency of this appeal, the claimants/respondents have filed by way of supplementary affidavit the income tax return for the assessment year 2019 till 2020.

Upon perusing the income tax return, it appears

that gross annual income is Rs. 7,71,808 and income tax deducted is Rs. 68,983/-. As the income tax is to be deducted from the income of a victim the net annual income comes to Rs. 7,02,825/-. $\frac{1}{4}$ should be deducted on account of personal expenses and $\frac{1}{4}$ of the personal expenses comes to Rs. 1,75,706/-and annual dependency loss comes to Rs. 5,27,119/-. As the victim was 63 years old multiplier 7 should be applied and by applying the multiplier of 7, the total dependency loss comes to Rs. 36,89,833/-. The loss on account of general damages should be 84,000/-. Thus, total compensation comes to Rs. 37,73,833/- which the respondents Nos. 1 to 4/claimants would be entitled from the appellant/ The Oriental Insurance Company Ltd.

Thus, this appeal stands disposed of. The judgment and award passed by the learned Additional District Judge, First Court-I, Islampur, Uttar Dinajpur in MAC Case No. 140 of 2020 stands modified to the extent that the total principal compensation which the respondent nos. 1 to 4/climants would be entitled from the appellant/The Oriental Insurance Company Ltd. is Rs.37,73,833/- along with interest @6% per annum from the date of filing till the date of realisation of the claim amount. The appellant/ the Oriental Insurance Company Ltd. has already

deposited Rs. 54,67,079/- which includes the principal amount as well as interest. Thus, the claimants would be entitled to withdraw Rs.37,73,833/- along with interest from the date of filing of the claim petition till the date of withdrawal of the amount.

The residuary amount which will be lying in the deposit shall be return to the appellant/ The Oriental Insurance Company Ltd. upon compliance of all necessary formalities.

It is hereby clarified that the disbursal of the amount shall be made in accordance with the proportion observed by the learned Trial Court

Accordingly, the appeal along with connected application, if any, stand disposed of.

Trial Court Records be send back.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Biswaroop Chowdhury, J.)