

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1331 of 2017

**National Insurance Company Limited
Versus
Prasenjit Das & Anr.**

For the appellant/insurance Co. : Mr. Parimal Kumar Pahari

For the respondent No.1/claimants :Mr. Ashique Mondal

Heard & Judgment on : 22nd January, 2025

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 24th March, 2017 passed by the Learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 3rd Court, Tamluk, Purba Medinipur in M.A.C. Case No. 7 of 2014.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 25.12.2012 at 8.00 p.m. in front of khodambari School at Chandipur- Nandigram Road within the district of Nandigram Police Station and the District of Purba Medinipur with the involvement of the offending vehicle being a truck bearing registration No. WB-29-4051 which hit the victim while he was standing along with his motor cycle bearing registration No. WB-30H/0453 in front of khodambari School at an exceeding speed

which resulted in the death of the victim at Purba Medinipur District Hospital.

4. The Learned Advocate representing the appellant/insurance company submitted that the appellant/insurance company was not liable to pay compensation amount since the driver of the offending vehicle did not have the adequate licence to drive the tractor as he was entitled to drive light motor vehicles according to the description mentioned in the driving licence whereas he was driving light motor transport vehicle.
5. The Learned Advocate representing the respondent No.1/claimant submitted that the Learned Tribunal considered each and every aspect to grant the compensation of Rs. 1,00,000/- as a consolidated sum since the respondent No.1/claimant failed to prove his avocation and income as well as extent of injury leading to the assessment of the percentage of disability. The impugned order passed by the learned Tribunal in MA.C. Case No. 7 of 2014 should not be interfered with.
6. It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company had deposited two distinct cheques i.e. Rs. 25,000 + Rs.1,01,947/- totaling to Rs. 1,26,947/.
7. The respondent No.1/claimants are entitled to receive the balance amount of Rs. Rs. 1,00,000//- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
8. The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the entire awarded amount so deposited along with accrued interest to the present

respondent No.1 /claimants as mentioned in the award passed by the Learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 3rd Court, Tamruk, Purba Medinipur in M.A.C. Case No. 7 of 2014 within four weeks from the date of passing of this order, on proof of proper identification of the respondent Nos.1 /claimants subject to payment of ad valorem Courts fees.

9. The instant appeal is disposed of accordingly.
10. The interim order if any stand vacated.
11. Pending applications if any stands disposed of.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

c.m. A.R. Court

(Ananya Bandyopadhyay, J.)