

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 953 of 2024

ICICI Lombard General Insurance Co. Ltd.

-Vs-

Siddhartha Ghosh & Anr.

For the Appellant/
Insurance Company : Mr. Parimal Kumar Pahari

For the Respondents/
Claimants : Ms. Sima Biswas

Heard and Judgment on : 07-05-2025

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 both the parties are present.
3. The claimant being the victim filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, 2nd Court, Suri, Birbhum being MAC Case No.75/2016, claiming an award of Rs. 5,00,000/- whereby the victim was injured due to a road traffic accident on 23/04/2015 at about 10 AM. The offending vehicle, a Maruti Swift bearing Registration No. WB-42-AC3221 hit the aforesaid deceased in a rash and negligent manner while he was riding his motor cycle. The victim had first been taken

to Suri Sadar Hospital for his grievous injuries and was later transferred to Durgapur Mission Hospital; and was discharged on 29.04.2015.

4. The owner of the offending vehicle appeared and filed a written objection but thereafter did not contest the case and the case proceeded ex parte against him.
5. The respondents, ICICI Lombard General Insurance Co. Ltd. contested the aforesaid MAC case.
6. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded a sum of Rs. 24,70,601/- as well as an interest of 9% from the date of filing the case till the realization of the amount.
7. The Learned Advocate representing the Appellants/claimants submitted as follows:-
 - a. The amount of compensation of Rs. 24,70,601/-as assessed by the Learned Tribunal without following the principles of assessment of compensation in injury case.
 - b. The victim /claimant did not file and/or exhibited any disablement certificate issued by the concerned Hospital where the victim was treated as well as the evidences of Doctors who treated him were not adduced before the Learned Tribunal.
 - c. The victim met with an accident on 23rd April, 2015 and was discharged from the Durgapur Mission Hospital on 29th April, 2015. Therefore, he was treated in the Hospital for his accident injury for only 7 days which proved that alleged injury sustained by the claimant was not so serious.

d. The injuries did not result in loss of earning capacity and the percentage of loss of earning capacity was not the same as the percentage of permanent disability.

8. The Learned Advocate representing the Respondent No.1/Claimant submitted that the Learned Tribunal had rightly assessed compensation awarded, which should not be interfered with.
9. Heard the submission of the learned advocates representing the respective parties.
10. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent as agitated by the Learned Advocates representing the both the parties. The victim/claimant, as PW 1 in his cross-examination submitted that he was totally jobless for a period of one year and resumed to work with his previous employer thereafter. The evidence of PW 4, the employer, to have issued the salary certificate marked as Exhibit-7 submitted the victim/claimant used to earn Rs.8,000/- per month. Under such circumstances, the victim/claimant is entitled to a sum of Rs.8,000/- X 12 = Rs.96,000/- as loss of income. The victim/claimant did not produce any disablement certificate with regard to the extent of disability suffered by him. However, the medical papers marked as Exhibit-5 indicated medical expenditure to the extent of Rs.1,08,493/-.
11. The victim/claimant is entitled to a sum of Rs.96,000/- (12 months Salary) + Rs.1,08,493/- (medical expenditure) + Rs.25,000/- (pain and suffering) =

Rs.2,29,493/- along with interest at the rate of 6% per annum to be paid from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its actual realization.

1. It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company to have deposited a sum of Rs. Rs. 36,93,133/-(Rs. 25,000 + Rs. 36,68,133/-) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.
2. The office of the Registrar General, High Court, Calcutta shall encash the cheques and, thereafter, disburse the same to the present respondent No. 1 /claimant, as mentioned in the award passed by the Learned Motor Accident Claims Tribunal, 2nd Court, Suri, Birbhum in MAC Case No.75 of 2016 on proof of proper identification of the respondent No. 1 /claimant subject to payment of ad valorem Courts fees and refund the balance amount, if any, through a cheque to the Learned Advocate representing the appellant/insurance company for the accounts of the insurance company.
3. The interest generated on the sum deposited by the appellant/insurance company at the office of the Learned Registrar General, High Court at Calcutta, which has already been deposited in the Nationalized Bank by the office of the Learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company.
4. The instant appeal is disposed of accordingly.
5. The interim order if any stand vacated.

6. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

S.R. (A.R.C.)