

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1031 of 2024

**Magma HDI General Insurance Company Limited
Versus
Sima Kora & Anr.**

For the Appellant : Ms. Gopa Das Mukherjee.

For the Respondents : Mr. Ali Imam Shah.

Heard & Judgment on : 11th March, 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 06.04.2024 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, 3rd Court, Suri, Birbhum in M.A.C. Case No. 148 of 2017.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the respondents/claimants due to the death of the victim in an accident which took place on 10.04.2017 at about 21:00 hours on the temporary road of Mayuraskshi river bank under Baidyapur mouza, P.S. – Sainthia, Birbhum with the

involvement of the offending vehicle being a truck bearing registration no. WB- 57C/6076 which according to the complaint lodged by the complainant on the relevant date and time ran over the victim though the complaint did not mention the registration number of the offending vehicle.

4. The learned Advocate representing the appellant/Insurance Company submitted that the complaint did not mention registration number of the offending vehicle being the truck and presumably stated the same to have been implanted and maliciously incorporated for the purpose of obtaining compensation from the appellant/Insurance Company.
5. The learned Advocate representing the respondents/claimants controverted the contentions of the learned Advocate representing the appellant/Insurance Company and stated that the Investigating agency had submitted its report imputing charges against the driver of the offending vehicle and the learned Tribunal had justifiably granted the compensation.
6. Heard the submission of the learned Advocate representing both the parties. The charge-sheet filed by the Investigating Agency, inter alia, stated as follows:-

"During investigation of the case I have visited the place of occurrence drawn up a rough sketch map of the place of occurrence with its index, examined all the available witnesses

and recorded their statements under Section 161 of the Code of Criminal Procedure held inquest over the dead body of deceased in c/w sainthia PS U/D Case No. 22/17 dated 10.04.2017. Later the dead body was identified as of one Sunil Hansda (28), S/o – Lt. Tunko Hansda @ Chunko Hansda of Village – Bijuri, P.S.- Sainthia, District – Birbhum. I send the dead body to Suri Sadar Hospital for holding post-mortem examination to ascertain the actual cause of death. I seized the involved offending Truck No. WB-57C/6076 along with its connected papers including D/L of accused driver’.

7. Since the occurrence of the accident, involvement of the offending vehicle, the statement in the charge-sheet, the driving license, Insurance certificate etc. are not disputed the learned Tribunal has rightly granted the compensation.
8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.8,76,400/- as per challan filed by the learned advocate representing the appellant/insurance company.
9. The Respondents are entitled to receive the amount of Rs. 8,76,400/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
10. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the

entire awarded amount so deposited to the present respondents /claimants in equal proportion as mentioned in the impugned judgment of the Learned Additional District Judge, Motor Accident Claims Tribunal, 3rd Court, Suri, Birbhum in M.A.C. Case No. 148 of 2017 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees.

11. The interest generated on the sum of money 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 in equal proportion.
12. The appellant/Insurance Company has already been granted the right to pay and recover the same from the owner of the offending vehicle and this Court is not inclined to interfere with the same.
13. The instant appeal is disposed of accordingly.
14. The pending applications, if any, stands disposed of.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)