

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1102 of 2024

**The New India Assurance Company Ltd.
v.
Jaba Biswas & Ors.**

For the Appellant/ Insurance Company	: Mr. Sanjay Paul
For the Respondent No.1/ Claimant	: Amit Ranjan Roy
For the Respondent Nos.2 and 3/ Claimants	: Saidur Rahaman
Heard on	: 28 th February, 2025
Judgment on	: 8 th April, 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been preferred against the impugned judgment and award dated 21st December, 2023 passed by the Learned Motor Accident Claim Tribunal & District Judge, Nadia at Krishnanagar in MAC Case No.33 of 2017.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the respondent nos.1 to 3/claimants on account of the death of the victim due to an accident, which occurred on 9th December, 2016 at about 05.50 p.m. on concrete road near Purnaganj BSF Camp, Majdia within the jurisdiction of Krishnaganj police station, District-Nadia with the involvement of an offending vehicle, being a JCB bearing registration No.WB-23C/9354, which approached at an exceeding speed rashly and negligently collided with the victim, who immediately suffered injuries and succumbed to the same.
4. The Learned Advocate representing the appellant/insurance company submitted that the instant appeal was filed exclusively on the ground of invalid driving licence and the learned tribunal had granted liberty to the insurance company to recover the compensation amount paid to the owner of the offending vehicle by filing a separate suit.
5. The Learned Advocate representing the respondent nos.1 to 3/claimants did not object to the same.
6. Since, the occurrence of the accident, involvement of the offending vehicle, insurance certificate etc. are not disputed by the Learned Advocate representing the appellant/insurance company, this Court restricts itself only to the extent agitated by the Learned Advocate representing the appellant/insurance company.

7. The learned tribunal after assessing the evidence on record had granted a default interest at the rate of 9% per annum, which is rectified to be 6% per annum from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its actual realization of the compensation amount to Rs.47,00,808/-.

8. The impugned judgment and order is further modified to the extent that the appellant/insurance company can recover the aforesaid compensation amount on proper proof of invalid driving licence being possessed by the owner of the offending vehicle.

9. The respondent Nos. 1 to 3/claimants are entitled to receive the balance amount of Rs. 47,00,808/- along with interest at the rate of 6% per annum from the date of filing of the claim application under Section 166 of the Motor Vehicles Act till the date of actual realization.

10. It was further submitted by the Learned Advocate for the appellant/insurance company that the appellant/insurance company submits to have deposited a sum of Rs. 69,46,296/-(Rs. 25,000 + Rs. 69,21,296/-) through two separate cheques as per challans filed by the Learned Advocate representing the appellant/insurance company.

11. The office of the Registrar General, High Court, Calcutta shall encash the cheques and, thereafter, disburse the same to the present respondent Nos. 1 to 3/claimants, as mentioned in the award passed by the Learned Motor Accident Claim Tribunal & District Judge, Nadia at Krishnanagar in MAC Case No.33 of 2017 on proof of proper identification of the respondent

Nos. 1 to 3/claimants subject to payment of ad valorem Courts fees and refund the amount through a cheque to the Learned Advocate representing the appellant/insurance company for the accounts of the insurance company.

12. 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.

13. The instant appeal is disposed of accordingly.

14. The interim order, if any, stand vacated.

15. The TCR be sent down to the concerned tribunal forthwith.

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

(Ananya Bandyopadhyay, J.)

S.R.