

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMAT (MV) 349 of 2024

National Insurance Company Limited
v.
Budin Hansda & Ors.

For the Appellant/
Insurance Company

: Mr. Rajesh Singh

For the Respondent nos.1 to 3/
Claimants

: Mr. Subrata Bhattacharyya

Heard on & Judgment on

: 24th 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 25th April, 2024 passed by the Learned Motor Accident Claims Tribunal, Durgapur, Additional District Judge, 2nd Court, Durgapur Paschim Bardhaman in MAC Case No.213 of 2022.
3. An application under Section 164 of the Motor Vehicles Act had been filed by the respondent Nos. 1 to 3/claimants on account of the death of the victim in an accident, which occurred on 10th June, 2022 at about 06:30 p.m. near Bijra Mowli Para within the jurisdiction of Durgapur Police Station with the involvement of an offending vehicle bearing registration

No.WB-40S/7377, which approached at an exceeding speed rashly and negligently hit the victim walking on the road proceeding towards his house at Sovapur from Dhabani. The victim suffered severe injuries and as admitted at IQ City Hospital, Durgapur, where he succumbed to his injuries on 13th June, 2022.

4. The Learned Advocate representing the appellant/insurance company submitted a delay of 5 days in filing the complaint indicated that the offending vehicle had been implanted and was not liable for occasioning the accident. Moreover, the learned Tribunal erroneously granted a sum of Rs.5,70,000/- as compensation contrary to the composite sum of Rs.5,00,000/- as statutorily mandated under Section 164 of the Motor Vehicles Act.
5. The Learned Advocate representing the respondent no.1 to 3/claimants did not controvert the submission of the learned advocate representing the appellant/insurance company.
6. Since, the occurrence of the accident, involvement of the offending vehicle, the driving license, 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. The claim application, the memo of appeal as well as the relevant portions of the judgment indicated that the appellant/insurance company failed to adduce evidence in claim of its stance before the learned Tribunal and this Court restrained itself to interfere with the same.
7. 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. 6,56,589/-(Rs. 25,000 + Rs. 6,31,589/-) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.

8. The grievance raised by the learned advocate representing the appellant/insurance company with regard to time delay in filing the complaint was negligible.

9. However, in accordance with Section 164 of the Motor Vehicles Act the respondent nos.1 to 3/claimants are entitled to a consolidated sum of Rs.5,00,000/- to be paid from the date of institution of the claim application till the date of its actual realization along with an interest at the rate of 6% per annum.

10. 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 in equal share, as mentioned in the award passed by the Learned Motor Accident Claims Tribunal, Durgapur, Additional District Judge, 2nd Court, Durgapur Paschim Bardhaman in MAC Case No.213 of 2022 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, if any, through a cheque to the Learned Advocate representing the appellant/insurance company for the accounts of the insurance company.

11. 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.

12. The instant appeal is disposed of accordingly.

13. The interim order if any stand vacated.

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

(Ananya Bandyopadhyay, J.)

S.R.