

In The High Court At Calcutta  
Civil Appellate Jurisdiction  
Appellate Side

**Present:-**

**The Hon'ble Justice Ananya Bandyopadhyay**

**FMA 43 of 2022**

**The Oriental Insurance Company Ltd.**

**v.**

**Sukumar Mondal & Anr.**

Ms. Sucharita Paul ... for the appellant/insurance company.

Mr. Snehashis Sutradhar  
Ms. Swarnali Biswas ... for the respondent No.1/claimant.

Heard on: February 27, 2025 & March 20, 2025.

Judgment on: March 20, 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 26<sup>th</sup> August, 2021 passed by the Learned Motor Accident Claims Tribunal, 8<sup>th</sup> Additional District Judge, Alipore, South 24-Parganas in MAC Case No.241 of 2007.
3. An application under Section 163A of the Motor Vehicles Act had been filed by the injured victim having sustained injuries out of an accident, which took place on 7<sup>th</sup> February, 2007 at about 7.00 p.m.

on the crossing of Ramesh Mitra Road and Gour Ghosh Road within the jurisdiction of Bhowanipore Police Station with the involvement of an offending vehicle being a Taxi bearing registration No.WB-04B-1602.

4. The Learned Advocate representing the appellant/insurance company submitted that the liability to compensate the victim did not arise, since the complaint had been filed after delay of 26 days from the date of the accident. Moreover, the injury suffered by the victim was assessed by a private Doctor and, accordingly, the compensation granted by the learned Tribunal had been exorbitant, which should be plummeted. She further submitted that the driving licence, which was issued in favour of the driver of the offending vehicle, was not seized. The Learned Advocate representing the appellant/insurance company submitted that interest granted 9% which should be 6% from the date of filing of the claim application
5. The Learned Advocate representing the respondent No.1/claimant submitted that the learned Tribunal taking into consideration each and every aspect had justifiably granted the compensation award, which should not be interfered with by this Court.
6. Considered the rival submissions of the Learned Advocates representing both the parties.
7. 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 of considering the points agitated by the Learned Advocate representing the appellant/insurance company as aforesaid. The document marked as "Exhibit-2" being the written complaint filed by the victim stated that he had been admitted in S.N.P. hospital, Kolkata for three days immediately after the accident and, thereafter, the delay in filing the written complaint due to the reasons, as cited therein, are explanatory and satisfactory. The delay in filing the written complaint to the extent of 26 days will not affect the merits of the instant case. The document marked as "Exhibits 9 and 10" corroborated the fact of the injury suffered by the victim and the extent of permanent disability assessed to be 35% is not improbable and, accordingly, this Court is not inclined to interfere with the same. Since the accident occurred in the year 2007, the learned Tribunal had rightly assessed the compensation to be paid Rs. 2,50,000/- on 26<sup>th</sup> August, 2021. This Court restricts itself only to the extent of granting compensation to the tune of Rs.1,75,000/- along with 6% interest in view of notification dated 22<sup>nd</sup> May, 2018 and the decisions of the Hon'ble Supreme Court in Urmila Haldar Vs. The New India Assurance Company Ltd. The aforesaid observations of the High Court at Calcutta and the Hon'ble Supreme Court, in the

second schedule 1(b) in case the disability 35% and the Hon'ble Supreme Court, the second schedule 1(b) is as follows: -

***“Accidents resulting in permanent disability:***

*Compensation payable shall be = (Rs.5,00,000/- x percentage disability as per schedule I of the Employee's compensation Act, 1923 (8 of 1923).*

*Provided that the minimum compensation in case of permanent disability of any kind shall not be less than fifty thousand rupees.”*

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 2,75,000/=(Rs. 25,000 + 2,50,000) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company. The Learned Advocate for the appellant/insurance company is to deposit the remaining balance amount along with interest in accordance with the above order before the office of the learned Registrar General, High Court Calcutta within six months from the date of passing of this order.
9. The respondent Nos.1 /claimant is entitled to receive the balance amount of Rs. 1,75,000/- along with interest at the rate of 6% per annum from the date of filing of the claim application i.e. 17.07.2008 till the date of actual realization.
10. The office of the Registrar General, High Court at Calcutta is to calculate the award passed by this Court today together with interest as aforesaid and thereafter disburse the same to the present respondent No.1 /claimant as mentioned in the impugned judgment

passed by the Learned Motor Accident Claims Tribunal, 8th Additional District Judge, Alipore, South 24-Parganas in MAC Case No.241 of 2007 on proof of proper identification of the respondent No.1 /claimant subject to payment of ad valorem Court fees.

11. The instant appeal is disposed of accordingly.
12. The interim order if any stand vacated.
13. The pending applications if any stands disposed of.
14. The TCR be sent down to the concerned Tribunal forthwith.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

***(Ananya Bandyopadhyay, J.)***