

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1395 of 2024

**National Insurance Co. Ltd.
Versus
Dipu Tarafdar (Mondal) & Ors.**

For the Appellant : Mr. M.P. Chakrabarty
Ms. Ratnadipa Karmakar

For the Respondent No.1 to 2/
claimants : Mr. Subhankar Mondal

Heard & Judgment on : 22nd April, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 7th June, 2024 passed by the learned District Judge, Fast Track 1st Court, M.A.C. Tribunal Raiganj in M.A.C. Case No. 61 of 2015.
3. Learned Advocate representing the appellant/insurance company submitted to have filed the instant appeal exclusively on the point of driving licence not being possessed by the owner of the

offending vehicle and sought for the right to pay the compensation awarded by the learned Tribunal and thereafter to recover the same from the owner of the offending vehicle.

4. 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 appellant/insurance company, this Court restricts itself only to the extent of an issue raised by the learned Advocate representing the appellant/insurance company.
5. The documents on record reveal that in connection with Siliguri P.S. Case No. 60 of 2011 dated 5th February, 2011 under Section 279/304A IPC, a seizure list was prepared by the Investigating Officer which mentioned "*one certificate of Registration in respect of pick up van bearing registration No. WB 73/X0565 in favour of the Narayan Ghosh son of Netai Ghosh of No.2 Satyen Bose Road Sivmondir P.S. Matigara District*". The fitness certificate with regard to the offending vehicle as aforesaid was valid up to 9.02.2011. A pollution certificate issued in favour of the offending vehicle had also been seized. The pick-up van was seized in the damaged condition. The seizure list as aforesaid marked as Ext.4 by the learned Tribunal negated the contention of the learned advocate representing the appellant/insurance company.

6. The instant appeal is accordingly dismissed. The impugned judgment and order passed by the aforesaid learned Tribunal is affirmed.
7. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 9,52,684/=(Rs. 25,000 + 9,27,684) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
8. The Respondent Nos. 1 and 2/claimants are entitled to receive the amount of Rs. 5,00,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
9. 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 respondent Nos. 1 and 2/claimants as mentioned in the impugned judgment passed learned District Judge, Fast Track 1st Court, M.A.C. Tribunal Raiganj in M.A.C. Case No. 61 of 2015 appellants/claimants subject to payment of ad valorem Court fees and refund the balance amount through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

10. 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 been further 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 through a cheque to be deposited at the office of the appellant/insurance company.
11. The interim order, if any, stand vacated.
12. The TCR be sent down to the concerned tribunal forthwith.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)