

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1367 of 2024

Jay Narayan Singha Roy

vs.

The Oriental Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy ... for the appellants/claimant.

Mr. Rajib Bose ... for the respondent no.1/insurance company.

Heard & Judgment on: 4th September , 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been preferred against the impugned judgment and award dated 10th February, 2023 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court, Suri, Birbhum in MAC Case No.167 of 2015.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimant/victim having suffered disability to the extent of 40% as assessed by the Medical Board constituted by the Superintendent, Suri Sadar Hospital Birbhum in an accident which

occurred on 25.8.2014 at 11 hours at Suri Rampurhat Road near Suri Bus Stand and Debanshi Petrol Pump within the jurisdiction of Suri Police Station Birbhum with the involvement of the offending vehicle being a truck bearing registration WB-25E-5467 which proceeding at a high speed recklessly and negligently clashed with the motor bike driven by the victim from the opposite side.

4. The Learned Advocate representing the appellant/claimant submitted the Learned Tribunal attributed contributory negligence to the extent of 50% on the appellant victim which was to his detriment since the evidence on record did not define the role or fault on the part of the victim to have been a period to the accident due to his own negligent or reckless act. Moreover the Learned Tribunal did not adopt the multiplier method as well as grant any compensation towards further prospect.
5. The Learned Advocate representing the respondent No.1/insurance company submitted the evidence on record revealed the appellant victim to have lost his income for a period of 7 months. The appellant/victim according to his own evidence before the Learned Tribunal stated to have rejoined his employment after a period of 7 months and continued with his service therefrom. Moreover the medical expenditure incurred by the victim as a result of the accident being sustained by him was disbursed in his favour by the Learned Tribunal. The appellant/victim was responsible partly to

have commissioned the accident since he was driver of the motor cycle being driven without authority or permission violating the provisions of Rule 3 of the Motor Vehicles Rules and accordingly was liable to pay 50% of the compensation amount as accorded by the Learned Tribunal.

6. Considered the rival contentions of the respective parties.
7. Since, the occurrence of the accident, involvement of the offending vehicle, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent agitated by the Learned Advocates representing the respective parties. The evidence of the victim himself as PW 1 in his cross-examination admitted the fact of loss of salary for 7 months and thereafter resuming his employment with Videocon D2h on and from 31st March, 2015. The evidence of PW 2 endorsed the fact of physical fitness of the victim who generally went to medical shop by riding on his motorcycle. Indubitably the medical records reveal the victim to have suffered the accident to a certain extent along with intrusion of an iron rod in his body thereafter being treated for sepsis. The claimant/victim failed to prove on record that he was unemployed as a result of sustaining the accident. The motor cycle which was being driven by the appellant/victim was seized. The charge-sheet marked as Exhibit 2 mentioned the truck to be the offending vehicle with its

seizure attributing the culpability upon the driver of the finding vehicle. Moreover the charge-sheet marked as Ext.2 also revealed the seizure of the motorcycle bearing registration no. WB-25E-5467, contrary, to the contentions of the Learned Advocate representing the respondent no.1/ insurance company. In absence of specific description on the part of the driver being the victim of the motor cycle to have been at fault the concept of contributory negligence could not have been relied upon. The appellant/victim is entitled to 100% of the compensation award by the Learned Tribunal.

8. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn 50 % of the awarded sum of Rs. 7,27,963/- The appellant/claimant is also entitled to 50% of the remaining awarded sum of Rs. 7,27,963/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application till the date of realization. In view of the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.¹ The appellant/claimant is to provide the detail of Bank Account held in the name of the appellant/claimant at the office of the Learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.
9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 7,27,963/- along with interest

as aforesaid before the office of the Learned Registrar General High Court at Calcutta within two months from the date of passing of this order.

10. On receipt of the said amount, the office of the Learned Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same directly to the bank account of the present appellant/claimant as mentioned in the award passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court, Suri, Birbhum in MAC Case No.167 of 2015 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.
11. The instant appeal is disposed of accordingly.
12. The pending applications if any stands disposed of.
13. The TCR be sent down to the concerned Tribunal forthwith.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)