

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. 104 of 2023

National Insurance Co. Ltd.

-Vs-

Saroj Devi & Ors.

For the Appellants/
Insurance Company : Mr. Afroz Alam

For the Respondents/
Claimants : Mr. Amit Ranjan Dey

Heard & Judgment on : 07.04.2025

Ananya Bandyopadhyay, J.:-

1. The instant appeal was heard earlier and judgment was reserved.
However, the matter was listed under the heading "For Hearing" for further clarification.
2. Four claimants had filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court, 2nd Court Asansol being MAC Case No. 3/2017, claiming an award of Rs. 50,00,000/- with cost and interest from the date of filing the application whereby the aforesaid deceased expired due to a road traffic accident on 19/04/2014. The offending vehicle, a Maruti car bearing Registration No. DL-2CA/6004 hit the victim rashly and negligently while the victim was riding his motorcycle. The victim was initially taken to BP Nehoge Hospital DVC by the local people and thereafter he was shifted to Vivekanand Hospital, Durgapur. However his condition deteriorated, and he was shifted to

Apollo Glenoagles Hospital and he succumbed to his injuries on 22.04.2014. Subsequently, based on a complaint, Maithan P.S. Case No. 85/14 dated 20/04/2014 was instituted against the driver of the offending vehicle under section 279/337/304A of the IPC.

3. The owner of the offending vehicle appeared but failed to file his written statements and the case proceeded ex parte against him.
4. The respondent, the National Insurance Co. Ltd. contested the aforesaid MAC case.
5. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidences and allowed for Rs 46,36,936/- with an interest payable at 6% from the date of filing the application till realization of the amount.
6. The Learned Advocate representing the appellant /insurance company submitted that the complaint was filed against an unknown vehicle after 17 days of the accident which inferred false implication of the vehicle for the purpose of claiming compensation. Moreover, the seizure list did not reveal any damages to have caused to the vehicle or any marked whatsoever to identify that the vehicle had dashed.
7. The Learned Advocate representing the respondents/claimants submitted that the claim of the learned advocate representing the appellant/insurance company was vague and baseless.
8. Considered the rival contentions of the Learned Advocates representing the respective parties.
9. 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 consider the point agitated by both the parties. The charge sheet filed by the investigating office mentioned the involvement of the offending vehicle contrary to the deposition of OPW 2 being the Professional Investigator deputed by the appellant/insurance company to investigate the case. The deposition of OPW 2 in examination in chief and cross examination as self contradictory could not be relied upon. Under such circumstances, the impugned judgment and order passed by the learned Tribunal is not interfered with.

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 70,21,673/=(Rs. 25,000 + 69,96,673) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
1. The Respondent Nos. 1 to 4/claimants are entitled to receive the amount of Rs. 46,36,936/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
2. 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 to 4/claimants as mentioned by Motor Accident Claims Tribunal-cum- Additional District Judge, Fast Track 2nd Court Asansol, Paschim Bardhaman, being MACC Case No. 3 of 2017 on proof of proper identification of the respondent No.1 to 4/claimants subject to payment of ad valorem Court fees within 12 weeks and refund the balance amount if any through a cheque to the

Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

3. 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.
4. The instant appeal and cross objection are disposed of accordingly.
5. The interim order if any stand vacated.
6. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. AR. Ct.

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