

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**IA No.:CAN/1/2023
in
FMA 975 of 2023**

**Cholamandalam MS General Insurance Company Limited
Versus
Sabita Gupta & Ors.**

For the appellant/Insurance Company : Mr. Soumalya Ganguli

For the respondents/claimants : Mrs. Rita
Bhattacharya

Heard & Judgment on : 16th July, 2025

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 03.08.2023 passed by the Learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Paschim Medinipur in M.A.C. Case No. 482 of 2021.
3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed by the claimants for the death of the victim in an

accident which occurred on 13.04.2017 at about 11:00 a.m. near United Bank of India within the jurisdiction of Jhargram Police Station with the involvement of the offending vehicle being a dumper bearing registration No. WB-33C/5824 which proceeding at an exceeding speed rashly and negligently clashed with the scooty driven by the victim bearing registration no. WB-34AL/3550 whereby the victim suffered injury and was treated at several hospitals and eventually expired at T.R.A. Hospital, Kolkata on 17.04.2017.

4. The Learned Advocate representing the appellant/Insurance Company submitted that the Police failed to seize the route permit which implied that the offending vehicle was driven without a route permit contrary to the terms and conditions of the insurance policy to have been issued in favour of the owner of the offending vehicle and on failure to comply the necessary requisites the appellant/Insurance Company was not liable to pay the compensation awarded. Moreover, the amount of pension received by the family members/claimants disentitled them to claim any compensation without deducting the amount of family pension received by the claimant/wife.
5. The Learned Advocate representing the respondents/claimants submitted that the pension issued in favour of the claimants

irrespectively would have been claimed by them and the Learned Tribunal had rightly considered the family pension to have been the part of the income. It was further submitted that the absence of route permit could not be proved by the appellant/Insurance Company which should not in any manner prejudice the claimants from being entitled to the compensation awarded.

6. Since the occurrence of the accident, insurance policy, the driving licence, route permit etc and other ancillary issues are not disputed by the Learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of the above-mentioned issue.
7. Considered the rival contention of the respective parties. The evidence of O.P.W. 1 as well as the examination-in-chief stated that the Police failed to seize the route permit. Failure on the part of the Police to seize the route permit did not entirely prove that route permit was not issued in favour of the offending vehicle. None appeared from the R.T.O. to endorse that valid route permit was not issued in favour of the owner of the offending vehicle. Moreover, it had been a settled principle that family pension to which the nominee of the deceased victim was enlisted to receive the same should not be deducted in case of a

compensation in Motor Vehicles Claim Cases which otherwise was a benefit to have enured by the claimants in absence of any mishap or accident to which the victim had been subjected to.

8. In view of the aforesaid observation, the instant appeal is dismissed. This Court is not inclined to interfere with the impugned Judgment and order.
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 with accrued interest directly to the Bank accounts of the respondents/claimants as mentioned by the Learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Paschim Medinipur in M.A.C. Case No. 482 of 2021 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount, if any, along with accrued interest through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the Insurance Company. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their Bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.
10. The pending applications, if any, stands disposed of.

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

(Ananya Bandyopadhyay, J.)

Srimanta, A.R.(Ct)