

Item
No.76

Ct
04

RUP

22.12.2025

IN THE CIRCUIT BENCH CALCUTTA HIGH COURT
AT JALPAIGURI
CIVIL APPELLATE JURISDICTION

FMA 53 of 2024
Subrata Sarkar

Vs
Shriram General Insurance Company Ltd. & Anr.

Mr. Gobindal Saha,
Mr. Tamal Kumar Sen,
Ms. Priyanka Dey,
Mr. Milan Ch. Laskar,
Mr. Srija Bhowmik. ... for the appellant.

Mr. Hirak Barman,
... for the respondent/insurance company.

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Learned advocates for the
appellant/claimant and learned advocate for
the respondent no.1/ Shriram General
Insurance Company Ltd. are present.

Heard learned advocates.

The appellant was the claimant before the
learned Trial Court and is aggrieved by the
judgement and award dated 17th October,
2023 passed by the Learned Additional District
Judge, 1st Court, Jalpaiguri in MAC Case No.
51 of 2017.

The ground of challenge in this appeal is
that the learned Trial Judge upon considering
the income of the appellant/claimant has
deducted 1/3rd which is not provided in the 2nd

Schedule and also not provided in any of the judicial decisions in injury case.

Learned advocate further submits that the total expenditure incurred for the treatment of the claimant is Rs.6,80,200/- but the learned Trial Judge by mistake recorded as Rs. 6,50,200/- . Learned advocate also submits that the amount awarded on account of pain and suffering is also very meager.

Learned advocate for the respondent no.1/insurance company disputes the submission made by the learned advocate for the appellant.

Upon hearing the learned advocate and considering the facts of the case, this Court is of the view that learned Trial Judge has proceeded to decide the claim case on the basis of 2nd Schedule to the Motor Vehicles Act, 1988. When the case was decided as per the 2nd Schedule under the Motor Vehicles Act, 1988 it was in force at the time of incident. However, as there is no provision in the 2nd Schedule to deduct 1/3rd in the case of partial disablement or injury, the learned Trial Judge erred in deducting 1/3rd from the total yearly income of the claimant/appellant.

The learned Trial Judge further erred in

calculating the total expenditure on account of medical expenses which is Rs. 6,80,200/- and not Rs.6,50,200/- . With regard to the amount awarded on account pain and suffering this Court does not think it just and proper to interfere in such decision.

Thus, the annual income of the claimant/appellant is considered to be Rs. 72,000/-. As it is case of 50% of disablement it shall come into 50% of 72,000/- and as the victim was between 25-30 years multiplier of 16 should be applied. Thus compensation on account of disablement is Rs. 5,76,000/- Further Rs.30,000/- should be added to medical expenses. Thus total compensation by arithmetical calculation comes Rs.6,06,000/-. As Courts have power to grant just and reasonable compensation, this Court is of the view that Rs. 6,00,000/- is just and reasonable compensation.

Thus, the claimant/appellant is entitled to Rs. 6,00,000/- from the respondent no.1./ Shriram General Insurance Company Ltd.

The respondent no.1`/ Shriram General Insurance Company Ltd. shall deposit the said sum along with interest from the date of filing of claim case till today excluding the sum

which is already deposited in terms of the order of the learned Trial Court. Such deposit shall be made before Registrar Circuit Bench, Jalpaguri, High court Calcutta within five weeks from the date of communication of this order.

With the above observation, the appeal stands disposed of.

(Biswaroop Chowdhury J.)