

Item
No.85

Ct
04

RUP

17.12.2025

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

FMA 50 of 2024

Pallab Mandal

Vs

The New India Insurance Company Limited & Anr.

Ms. Rumili Basu,
Mr. Durga Bagani.

... For the appellant.

Mr.Rishin Chakraborty
... For the insurance company/ respondent.

Learned advocates for the appellant as well as learned advocate for the New India Insurance Company Limited/ respondent no.1 are present.

Heard learned advocates for the parties.

The appellant before this Court was a claimant in a Motor Accident Claim Case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgement and award dated 8th December, 2017 passed by the Learned Additional District Judge, 2nd Fast Track Court, Jalpaiguri in MAC Case No. 442 of 2008.

The grounds on which the judgment and award is assailed is the Learned Trial Judge has granted inadequate compensation and has failed to take into consideration the partial

disablement suffered by the victim.

Heard learned advocate for the appellant and learned advocate for the respondent no.1/insurance company.

Learned advocate for the appellant submits that the Learned Trial Judge just considered the compensation on account of pain and suffering and medical expenses and have awarded a consolidated sum of Rs. 50,000/- on account of delay. Learned advocate further submits that in the instant case if monthly income on notional basis future prospect and disability of 50% is taken into consideration, the total compensation should be 7,56,000/-.

Learned advocate for the respondent no.1/insurance company submits that the compensation awarded is just and reasonable and the disability certificate which is relied upon by the claimant/appellant was issued after period of six years.

Learned advocate for the respondent no.1/insurance company relies upon the following decisions:

- i) Bansanna vs. Sharanabasappa & Another reported in 2025 (4) T.A.C. 63 (S.C.)
- ii) Kamukayi vs. Union of India reported

in 2023 ACJ 1659.

- iii) Mithu @ Mithun Sen vs. New India Assurance Co. Ltd. reported in 2025 (2) T.A.C. 505 (Cal).

I have giving consideration to the materials on record the decisions relied upon and the judgment and award passed by the Learned Trial Court.

Upon perusing the materials on record and considering the facts of the case it is an admitted position that the victim has suffered 50% temporary disability. It further appears that victim was admitted to hospital for about 11 days. Upon considering the age of the victim which is 11 years, the period of stay in the said hospital about 11 days and the fact that victim has suffered temporary disability of 50% and 4 lateral toes with lateral 1/3 of ventral skin separated off, removed and cleaned and dressed under General Anesthesia on 29.08.2008, this Court is of the view that the compensation on account of disablement, pain and suffering should be enhanced to Rs. 3,00,000/-. With regard to the medical expenses this Court does not find any necessity to interfere and the medical expenses as awarded by the Learned Trial

Court shall remain as Rs.70,000/-. Although by calculation compensation comes to Rs. 3,70,000/- but however, as the courts are empowered to grant just reasonable compensation, this Court is of the view that Rs. 4,00,000/- should be just and reasonable compensation to be awarded to the claimant/victim.

Thus this appeals stands disposed of. The Judgement and award dated 8th December, 2017 passed by the Learned Additional District Judge, 2nd Fast Track Court, Jalpaiguri in MAC Case No. 442 of 2008 stands modified to the extent that the claimant/appellant is entitled to Rs.4,00,000/- from the respondent no.1/ New India Insurance Company Limited. It is submitted by the learned advocates that Rs. 2,40,000/- has already been paid to the claimant without any interest. Respondent no.1/insurance company shall pay Rs. 1,60,000/- along with interest @ 6% per annum from the date of filing till today. Such payment shall be made within five (05) weeks from date of communication of this order.

With the aforesaid observation, the appeal stands disposed of.

Trial Court Records be send down
immediately.

(Biswaroop Chowdhury J.)