Item No. 43 | 06.01.2026

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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 346 of 2024

Smt. Jaya Roy & Anr..
Vs
The Reliance General Insurance Co. Ltd. & Anr..

Mr. Saidur Rahaman.
... for the appellants.

Mr. Sanjoy Paul.
... for the respondent no.1/insurance company.

Learned advocate for the appellants and learned advocate for the respondent no.1/ the Reliance General Insurance Co. Ltd. are present.

Heard the learned advocates.

The appellants before this Court were the claimants in a case under Section 166 of the Motor Vehicles Act 1988 and are aggrieved by the judgement and award dated 31.05.2023 passed by the Learned Additional District Judge, Fast Track, 1st Court, Raiganj, Dakshin Dinajpur in MAC Case No. 124 of 2019. The case of the appellants/claimants may be summed up thus:-

On 06.05.2019 at about 09.30 p.m. the deceased victim Subhankar Roy was returning home after finishing his work from Raiganj in his own motor-cycle with moderate speed having registration no. WB-60N/5801. When he reached Kaludanga on Kunor-Durgapur pucca road, at that time offending motor-cycle bearing registration No. WB-60C/6186 coming in the high speed and in rash and negligent manner all of a sudden came on wrong side and dashed the motor-cycle bearing registration No. WB-60C/5801 from behind as a result motor-cycle being No. WB-60N/5801 dashed a "Vutvuti". The deceased Subhankar Roy received serious head injury and his motor-cycle was badly damaged. The local people took deceased to Raiganj hospital and from there he was taken to Sudha Nurshing home, Raiganj. Therefore, deceased was shifted to PARAS HMRI Hospital, Patna and lastly to DESUN Hospital, Siliguri where he succumbed to his injuries.

Pursuant to filing of this claim case, notice was issued upon the opposite parties. The respondent no.1/ The Reliance General Insurance Co. Ltd. filed written statement and contested the case. However, the respondent no.2 vehicle owner although appeared but did not contest the case.

By judgment and award dated 31.05.2023, the learned Trial Judge was pleased to dispose of the claim case by observing and directing as follows:-

"Hence, It is
ORDERED

That the application registered as MAC Case No. 124 of 2019 is allowed, on contest against the O.P No.2 and ex-parte against the O.P. No.1 i.e. the owner of the offending vehicle."

The O.P. no.2 i.e. Reliance General Insurance Co. Ltd. is directed to pay a sum of Rs.9,20,174/- each to petitioner no.1 (Smt. Jaya Roy and petitioner No.2(Satyendranath Roy) vide two separate cheques within one month from this day along with interest @ 6% per annum from the date of filing of the instant application till realization of the award. However, OP No.2 is exempted from paying interest from the period between 25.04.2020 and 31.12.2021 due to Covid-19 pandemic.

The petitioners/claimants no.1 and 2 are entitled to receive the cheques on payment of deficit court fees as per rules.

The claimants/petitioner no.1 and 2 are directed to furnish their photographs before receiving their cheques."

The appellants/claimants being aggrieved by the judgment and award passed by the learned Trial Court with regard to the quantum of compensation has come up with the instant appeal.

Heard learned advocates for the appellants and learned advocate for the respondent no.1/ The Reliance General Insurance Co. Ltd.. Perused the materials on record.

Learned advocate for the appellants/claimants submits that the learned Trial Judge has granted compensation which is inadequate by taking into consideration only notional income of Rs.6500/- which should be much higher. Learned advocate further submits that the learned Trial Judge also did not take into consideration the future prospect and has awarded the compensation. Learned advocate also submits that medical expenses, which was incurred by the claimants with regard to treatment of the victim has also not been awarded in full.

Learned advocate for the respondent no.1/ The Reliance General Insurance Co. Ltd. submits that the medical expense bill, which were proved before the learned Trial Court were considered and awarded. However, with regard to the bills, which remain unproved the learned Trial Court could not award any compensation for those expenses. Learned advocate further submits that the claimants did not furnish any documents with regard to the income earned from HDFC Life Insurance Co. Ltd. Thus, learned Trial Judge was justified in taking into consideration Rs.6500/- as notional income and thereafter proceeding to compute the compensation. However, with regard to the issue of future prospect learned advocate submits that although the same was not considered by the learned Trial Court he leaves it to the discretion of this Court for considering of the same. With regard to the stand taken by the appellants about the medical expense incurred, this

Court finds substance in the argument of the learned advocate for the respondent no.1/ the Reliance General Insurance Co. Ltd. that the bills, which were proved were considerd and compensation awarded. Thus, this Court does not find any ground to intervene with regard to the medical expenditure already granted by the learned Trial Court. With regard to the occupation of the victim although the parents of the deceased victim could not furnish any documents with regard to his employment but it is specifically stated on oath that the name of the employer of the deceased was HDFC Life Insurance Co. Ltd. 13th Floor, Lodha Execelus Appolo Mills Compound N. M Joshi Road Mahalakshmi, Mumbai- 400011. From cross-examination also nothing can be found which shakes the evidence that the victim is to work at HDFC Life Insurance Co. Ltd. As the Motor Accident Claim Tribunal is not civil Court and the proceeding before the Motor Vehicles Act is a quasi judicial proceeding the Court while considering the claim case with regard to the compensation may not be rigid with documentary evidence if from the oral evidence confidence is gained about the victim working in a particular establishment and the same may be taken into consideration and compensation awarded. The insurance company which works for public interest and also conducts inquiry with regard to accident and employment of the victim is also empowered to conduct necessary inquires to ascertain and see that genuine compensation are honoured and frivolous claims are rejected. In the instant case no enquiry was conducted about employment of victim and no report submitted.

Considering the specific averments made with regard to the employment of the victim this Court is of the view that the specific averment by the claimants regarding employer and address should be taken into consideration as to the occupation of the victim. As no document is furnished with regard to the income it would be just and proper that monthly income of Rs.10,000/- be taken into consideration to assess the compensation. Thus, Rs.10,000/- per month is taken into consideration to assess the compensation. As the victim's monthly income of Rs.10,000/-, 50% is deducted on account of personal expenditure and the monthly income comes to Rs.5000/-. 40% should be considered on account of future prospect and the monthly income comes to Rs.7000/-. As the monthly income comes to Rs.7000/-, the yearly income comes to Rs.84,000/-. As the victim was 24 years old the multiplier should be 18 and total dependency loss Rs.15,12,000/-. The general damages awarded was 30,000/- but Rs. 1,10,000/- should be granted on account of funeral expenses loss of estate and filial consortium of Rs.40,000/- each. Thus, general loss comes to Rs.1,10,000/-. The medical expenditure proved is Rs.11,08,348/-. Thus the appellants/claimants are entitled to Rs. 27,30,348/- along with the interest at the rate of 6% per annum from the date of filing till today. As Rs. 18,40,348/- along with interest is already paid by the respondent no.1/ The Reliance General Insurance Co. Ltd., the balance amount of Rs.8,90,000/- along with 6% interest from the date of filing of claim case till today be deposited by the respondent no.1/ the Reliance General Insurance Co. Ltd. before the learned Registrar General, High Court Calcutta within eight (08) weeks from the date of communication of this order.

Upon deposit of the amount being made the claimants/appellants will be permitted to withdraw the same upon compliance of all necessary formalities. The share as directed by the learned Trial Court will remain same.

With the aforesaid observation, the appeal along with connected application, if any, stand disposed of

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Biswaroop Chowdhury, J.)