IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 1854 of 2018

United India Insurance Company Limited

VERSUS

Mira Rani Chowdhury & Anr.

For the appellant/Insurance Company:	Ms. Sucharita Paul, Adv.
For the respondents/claimants:	Mr. Saidur Rahaman, Adv.

Last Heard on: June 09, 2026

Judgment on: June 16, 2026

Biswaroop Chowdhury, J:

The appellant before this Court was an opposite party in a case under Section 163A of the Motor Vehicles Act 1988 and is aggrieved by the Judgment and Award dated 24th October 2017 passed by Learned Additional District Judge Resignated Court Paschim Medinipur in MAC Case No. 528 of 2019.

The case of the respondent/claimant before the Learned Trial Court may be summed up thus:

On 23-12-2002 at about 7 P.M. Amaresh @ Raju Chowdhury was standing by the left side morum portion of Ghatal Midnapore pitch road at Narajon Bazar at that time a high speedy Motor cycle No. WB-34H/7897 (Hero Honda) coming from Keshpur sids suddenly dashed Amaresh @ Raju from the back side with great before. As a result Amaresh @ Raju sustained deep blood injuries on his chest and all over his person. Local people took him to Midnapore Sadar Hospital. Due to gravity of injuries doctor of the said hospital transferred him to NRS medical college and hospital on the next date and where he died on 26-12-2002 at about 4.50 P.M. The accident took place due to rash and negligent driving of the driver of the offending Motor Cycle No. WB-34H/7897 (Hero Honda).

Pursuant to the filing of the case notice was issued upon the opposite parties. Opposite party vehicle owner did not contest the case by filing written statement.

However opposite party Insurance Company filed written statement and contested the case. ISSUES were framed and evidence was adduced. By Judgment and Award dated 24th October 2017 Learned Trial Judge disposed of the claim case by observing and directing as follows:

'Hence it is ORDERED that the instant MAC case No. 528 of 2014 be and the same is allowed on contest only against the O.P. No. 2/United India Insurance Company Limited and ex-parte against the OP No. 1/Badal Chandra Shaw.

The petitioner/claimant, that is namely Mira Rani Chowdhury do get an award of Rs. 400,000/- as compensation from the OP No. 2 United India Insurance Company Limited. The O.P. No. 2/United India Insurance Company Limited being the insurer of the offending vehicle is to indemnify the compensation.

The O.P. No. 2/United India Insurance Company Limited is directed to issue one account payee cheque of Rs. 400,000/- in favour of the petitioner/claimant namely Mira Rani Chowdhury.

The total amount of compensation will fetch interest @6% per annum from the date of filing of this case that is since 20.09.2014.

The O.P. No. 2/United India Insurance Company Limited is further directed to issue said cheque within 60 days from the date of this order.'

The appellant insurance company being aggrieved by the Judgment and Award passed by the Learned Trial Court has come up with the instant appeal.

Heard Learned Advocate for the appellant and Learned Advocate for the respondent no.1/claimant. Perused the evidence adduced and material on record.

Learned Advocate for the appellant submits that the Learned Trial Judge erred in law in entertaining the claim petition of the claimant when the FIR was lodged after 2 years from the date of accident and the claim case filed about ten years thereafter without any explanation of delay. Learned Advocate relies upon the following judicial decision:

Purohit and Company VS Khatoonbee and Anr.

(2017)4SCC-P-783.

Learned Advocate for the respondent no-1/claimant submits that there is no fixed period mentioned under law to file claim case. Learned Advocate further submits that delay in FIR is explained.

Before proceeding to decide the matter in issue it is necessary to consider the decision of the Hon'ble Supreme Court in the case of Purohit and Company (supra). The Hon'ble Supreme Court in the said case dismissed the claim petition which was filed after 28 years from the date of accident. The Hon'ble Supreme Court observed as follows:

'16. The question of reasonability would naturally depend on the facts and circumstances of each case. We are however, satisfied, that a delay of 28 years, even without reference to any other fact, cannot be considered as a prima facie reasonable period, for approaching the Motor Accidents Claims Tribunal. The only justification indicated by the respondents, for initiating proceedings after a lapse of 28 years, emerges from Para 4, contained in the application for condonation of delay, filed by the claimants, before the Tribunals. Para 4 aforementioned is extracted hereunder:

“4. That the petitioners are poor person and they have no knowledge about the Law. Also the respondent has not pay the single pie towards any compensation.”

17. Having given our thoughtful consideration to the justification expressed at the behest of the respondents, for approaching the Tribunal, after a period of 28 years, we are of the view, that the explanation tendered, cannot be accepted. Undoubtedly, the claim (pertaining to an accident which had occurred on 2-2-1977), in the facts and circumstances of the instant case, was stale, and ought to have been treated as a dead claim, at the point of time, when the respondents approached the Tribunal by filing a claim petition, on 23-2-2005.’

It is true that in the year 2014 there was no specified period of limitation in the Motor Vehicles Act 1988 when the claim case was filed, but when a period is not specified the said claim has to be filed within a reasonable period. What is reasonable period depends upon the facts of each case.

It will appear at the outset that the point of delay in filing claim case was not taken by the Appellant Insurance Company in the written statement filed before the Learned Trial Court although the point of delay in lodging FIR is taken along with other facts of the case. Thus the Insurance Company has conceded to the plea of delay. As Motor Vehicle claim legislation is a beneficial legislation the Courts in absence of the plea regarding delay has the discretion to entertain the claim case. Thus considering the fact that in the case of Purohit and company the point of delay was taken in the written statement by the Insurance Company which is not done in the instant case, the plea cannot be entertained at this stage. Moreover delay in the case of Purohit and company was 28 years but in the instant case it is ten years from the date of lodging of FIR.

Now upon further perusal of the record it will appear that pursuant to giving information to Police Authority about accident the police Authority did not take any steps for which the son of the claimant filed petition under Section 156(3) of the Code of Criminal Procedure after waiting for two years pursuant to giving information to police. The application under Section 156(3) of the Code of Criminal Procedure was allowed and the same was directed to be treated as FIR. Thereafter investigation was taken up by the Police Authority and charge sheet submitted against driver of offending vehicle. Although the claimants in the claim petition did not explain the delay but upon perusal of the materials in the record it will appear that the driver of the offending vehicle was convicted by order dated 28/11/2013 passed by Learned Judicial Magistrate Ghatal Paschim Medinipur in GR-413/04. As conviction of offending driver is a ground and evidence to establish the claim case this aspect should be taken as an indication for the delay as claim legislation is a beneficial legislation.

However when Courts or Tribunals upon considering the issue of in-ordinate delay as well as the facts of the case exercises the discretion to entertain a claim case, Courts have discretion to refuse awarding of interest or may award interest at a low rate.

In the instant case considering the delay in filing the claim case this Court is of the view that interest on compensation should be @3% p.a.

Hence this Appeal FMA 1854 of 2018 is dismissed with regard to the Principal Amount of compensation being Rs. 400,000/- awarded by Learned Additional District Judge Re-designated Court Paschim Medinipur in MAC Case No-528 of 2019. The Principal Amount of compensation awarded by the Learned Trial Judge is affirmed. However the rate of interest awarded by Learned Trial Court is reduced to 3% p.a. The respondent/claimant will be entitled to interest @3% p.a. from date of filing claim case till realization.

The appellant insurance company will deposit Rs. 400,000/- along with interest @3% p.a. before the Registrar General High Court Calcutta within 8 weeks from the date of communication of this Order. In the event compensation awarded by Learned Trial Court is already deposited no further deposit be made.

The claimant/respondent will be entitled to withdraw Rs. 400,000/- along with interest @3% per annum upon compliance of necessary formalities. Balance amount if any be returned to the appellant Insurance Company.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)