S/L3
17.11.2026
Court No.9
Swd

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

FMA 543 of 2026
With
IA NO: CAN/3/2026

National Insurance Company Limited
Vs.
Sarmistha Manna& Ors.

Mrs. Sucharita Paul.
... for the Appellant/Insurance Co.

Mr. Amit Ranjan Roy.
... for the Respondent/Claimant.

1. Learned Advocates for the parties are present.
2. Heard learned Advocates.
3. The appellant before this Court was an opposite party in a case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award dated 26th September, 2025 passed by the learned Additional District and Sessions Judge, Fast Track, 2nd Court, Tamluk, Purba Mednipur in M.A.C Case No.472 of 2021.
4. The case of the claimants respondents before the learned Trial Court may be summed up thus:

   On 15.07.2021 at about 10.45 a.m. while the victim was going towards Haldia more from Howrah side for some work on NH-6 by a motor cycle bearing No. WB 30U 6069 with extreme left side of the road in a normal speed when the

victim reached near Sarat setu under Kolaghat P.S. at that time one Maruti car being No. WB-30V 6840 which was going towards Kharagpur side from Howrah side with extreme high speed, endangering to human life and safety in a rash and negligent manner, without blowing any horn dashed the victim with great force from behind, along with his motor cycle. As a result the victim sustained grievous bleeding injury all over the body specially on head and died on the spot. The accident was caused due to rash and negligent driving on the part of the driver of the offending vehicle being No.WB 30V 6840 (Maruti car).

5. Pursuant to filing of this case, notice was issued upon the opposite parties. The opposite party vehicle owner did not appear to contest the case. However, the opposite party Insurance Company contested by filing written statement. Issues were framed and evidence was adduced.

6. The learned Trial Judge upon considering the evidence adduced and upon hearing the learned Advocates was pleased to dispose the claim case by observing and directing as follows:

"Hence, It Is,

ORDERED

That the application under Section 166 of the M.V. Act, 1988 is allowed on contest against the

opposite party No.2 (National Insurance Co. Ltd.) and ex parte against the opposite party No. 1.

There shall be no order as to costs.

The petitioners namely (1) Sarmistha Manna (wife of the deceased Tapan Manna), (2) Bristi Manna (daughter of the deceased Tapan Manna) and (3) Jit Manna (minor son of the deceased Tapan Manna) shall get an award from the Opposite Party No.2 (National Insurance Co. Ltd.) of a sum of Rs. 39,06,000/- (Rupees Thirty Nine Lacs Six Thousand only) as compensation along with 6% simple interest per annum on the said amount to be calculated from the date of filing of this case, i.e. from 19.08.21 till the actual deposit of the amount.

It is made clear that since the claim ordered herein is not an income of the claimants, no TDS shall be deducted on the claim amount including the interest on the same.

The Opposite Party No.2 (National Insurance Co. Ltd.) is hereby directed to pay the aforesaid amount of compensation along with the interest to the claimants by issuing separate A/c payee cheques in the manner herein below within one month from the date of delivery of judgment as follows :-

1. In the name of Sarmistha Manna (wife of the deceased Tapan Manna) amounting to Rs.

13,02,000/- (Rupees Thirteen Lacs Two Thousand only), along with interest as ordered;

2. In the name of Bristi Manna (daughter of the deceased Tapan Manna) amounting to Rs. 13,02,000/- (Rupees Thirteen Lacs Two Thousand only), along with interest as ordered; and

3. In the name of Jit Manna (minor son of the deceased Tapan Manna) amounting to Rs. 13,02,000/- (Rupees Thirteen Lacs Two Thousand only), along with interest as ordered.

The petitioner No.1 shall open separate bank account in the name of her minor son Jit Manna in any nationalized bank and deposit hischeque of Rs. 13,02,000/-, in a fixed deposit scheme in the said bank yielding highest interest for a term till they attain the age of majority. The said amount shall not be withdrawn before attainment of age of majority by the minor son. Further, the petitioner No.1 will be at liberty to withdraw her cheque only after filing of the fixed deposit certificates in respect of her minor son before this Tribunal. The case stands disposed of. Bench Clerk to make note in the relevant register accordingly. The case record be consigned to the Record Room. The petitioners are directed to furnish their photographs before receiving the cheque(s).

Let a copy of this Judgment be supplied to both the parties free of cost.

Given under my hand and seal of this Tribunal on this the 26th day of September, 2025.

Judgment consisting of 22 (Twenty Two) pages numbering pages 1 to 21 is tagged separately with the case record."

7. The appellant The National Insurance Company Limited being aggrieved by the judgment and award passed by the learned Trial Court has come up with the instant appeal.
8. Heard learned Advocate for the appellant and learned Advocate for the claimants respondents. Perused the evidence adduced and the materials on record.
9. Learned Advocate for the appellant Insurance Company submits that although the FIR was lodged on the self-same date of the accident, but the seizure of the offending vehicle was made after 21 days, which makes the case of the claimants respondents doubtful.
10. Learned Advocate further submits that the report of the investigator of the insurance company states that the offending vehicle as mentioned by the claimants respondentswas not involved, but another vehicle was involved. Learned Advocate also submits that the compensation awarded is slightly high and the same should be reduced.
11. Learned Advocate points out to the calculation made by the learned Trial Court with regard to

the annual income of the victim. It is submitted that instead of the annual income being Rs.3,25,800/-, it should be Rs.3,25,500/-.

12. Learned Advocate of the claimants respondents submits that the claimants respondents have been able to prove the case and the judgment of the learned Trial Court should not be interfered with.

13. Upon hearing the learned Advocates and considering the materials on record, this Court is of the view that with regard to the delay in making the seizure by the police authority, the investigating officer was not examined by the Insurance Company.

14. Thus, at this stage, upon considering the police report and the evidence adduced, this Court does not find any ground to doubt the same. Second, with regard to the report of the investigators of the insurance company, the same was not before the learned Trial Court, thus, no consideration can be made on the said issue.

15. Thirdly, with regard to the tax deducted at source, as the present law does not provide to the tax deduction on the compensation amount for an individual, this Court does not find any error committed by the learned Trial Judge. However, with regard to the quantum of compensation, it

appears that the income of the victim ought to have considered as Rs.3,25,500/-.

16. As the difference in the annual income which is computed by the learned Trial Court and the actual annual income of the victim is only Rs.500/-, this Court is of the view that instead of going into further calculations of the income, it would be just and reasonable to bring down the compensation amount to Rs.38,50,000/-.

17. Hence, this appeal **FMA 543 of 2026** along with all connected applications stand disposed. The judgment and award dated 26th September, 2025 passed by the learned Additional District and Sessions Judge, Fast Track, 2nd Court, Tamluk, Purba Mednipur in M.A.C Case No.472 of 2021 stands modified to the extent that the claimants respondents are entitled to Rs.38,50,000/- from the appellant National Insurance Company Ltd. along with interest @ 6% per annum from the date of filing claim case till today.

18. The appellant National Insurance Company Ltd. shall deposit Rs.38,50,000/- along with interest @ 6% per annum. Such deposit shall be made within a period of 8 weeks to the Registrar General, High Court, Calcutta from the date of communication of this order.

19. In the event, compensation awarded by the learned Trial Court is already deposited, no

further deposit be made. The claimants respondents will be entitled to withdraw the compensation upon compliance of necessary formalities. The compensation amount will be distributed amongst the respondent Nos.1, 2 and 3 in equal share upon payment of the deficit court fees, if any. The balance amount if any with accrued interest be returned to the appellant insurance company.

20. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(**BISWAROOP CHOWDHURY, J.)**