18.02.2026
Sl. No. 09
g.b.
Court No.09

FMA 1061 of 2025
With
FMA 612 of 2025

National Insurance Company Ltd.
-Vs-
Chandana Giri & Ors.

With

Chandana Giri & Ors.
Vs-
National Insurance Company Ltd. & Anr.

Mr. M. P. Chakraborty
Ms. Ratnadipa Karmakar
....For the appellant/ Insurance Co.
Mr. Amit Ranjan Roy
...For the respondents/claimants

Learned advocates for the parties are present.

Heard learned advocates for the parties.

The above two appeals have been filed against common judgement and award dated 24.12.2024 passed by learned Additional District Judge, 2nd Court, Tamluk, Purba Medinipur in MAC case no. 358 of 2020.

The appellant/National Insurance Company Ltd. being aggrieved by the judgement and award passed by the learned Trial Judge has preferred the appeal being FMA 1061 of 2025. On the other hand, the claimants/respondent nos. 1, 2 and 3 have preferred an appeal being FMA 612 of 2025 being aggrieved with regard to the quantum of compensation awarded by the learned Trial Judge.

The case of the claimants before the learned Trial Court may be summed up thus:

On 25.06.2020 at about 5 a.m. Arun Giri was coming from Heria side by his scooty and he was standing for nature call near Matonginie Nursing Home at Udakhali on Digha - Mechada Road (NH-116 B). At that time the offending vehicle WB-30X-3104(Maruti) was coming from Haria side and proceeding toward Mecheda side with very high speed, when the said offending vehicle reached at the place of occurrence the driver of the said Maruti WB-30X-3104 could not control the said vehicle which dashed knocked & runover Arun Giri from his back side with great force on the mud & morram portion of the road.

Arun Giri was injured very grievously. He was first taken to Heria B.P.H.C. then the doctor of the said Hospital referred him to Purba Medinipur District Hospital at Tamluk on 25.6.2020. But that day the doctor of the said Hospital declared that he died due to the said accident and accidental injuries.

The said accident took place only due to rash and negligent driving of the driver of the said offending vehicle WB-30X-3104 (Maruti) who was driving the said vehicle endangering human life and safety and violating traffic road rules. Rash and negligent driving of the driver of the said offending vehicle WB-30X-3104 was the sole cause of the accident which could easily be avoided if the reckless driver took proper care. The said offending vehicle was proceeding rashly and negligently along with Zigzag manner.

At the time of accident, deceased Arun Giri was a healthy young man with active, habit and he had every chance to prosper in his future life, occupation and earning if he was alive. He was only earning member of his family. These petitioners were fully dependent upon the income of the deceased. The applicants have sustained great mental and financial loss due to the accident and accidental. premature death of Arun Giri.

Pursuant to filing of this case, notice was issued upon the opposite parties. Opposite party/National Insurance Company Ltd. contested the case by filing written statement. By judgement and award dated 24.12.2024 the learned Trial Judge was pleased to dispose of the claim case by observing and directing as follows:

"Hence, it is

ordered

that the instant M.A.C. Case No. 358 of 2020 under Section 166 of the M. V. Act is hereby allowed on contest against OP-1 i.e. Manas Kumar Samanta and OP-2 i.e. National Insurance Co. Ltd. but without costs.

All the three claimants are entitled to get a total compensation of Rs.9,84,000/- with an interest @ 6% p.a. from the date of filing of the instant case till realization against OP No.2 National Insurance Co. Ltd.

Claimant No.1 Chandana Giri will get a compensation of Rs.4,84,000/-(including consortium), Claimant Nos.2 Amit Giri will get a compensation of Rs.3,00,000/- and claimant No.4 Chandrani Giri will get compensation of Rs.2,00,000/-, within one month from this day, failing which the claimants will be at liberty to execute the Award under due process of law.

The OP No.2/National Insurance Co. Ltd. is hereby directed to issue three separate A/C payee cheques as described above within one month from the date of passing of the instant Order."

The appellant/National Insurance Company Ltd. being aggrieved by the judgement and award passed by the learned Trial Judge has preferred the appeal being FMA 1061 of 2025 and the claimant/respondent nos. 1, 2 and 3 being aggrieved by the quantum of compensation awarded by the learned Trial Judge has preferred the appeal being FMA 612 of 2025. As the two appeals arose from a common judgement and common points of law are involved, the appeals were taken up for hearing analogously.

In appeal FMA 1061 of 2025 the appellant/ National Insurance Co. Ltd. has assailed the judgement and award passed by the learned Trial Judge on three grounds. Firstly, the future prospect awarded is Rs.1,50,000/-. Secondly, Rs. 2,00,000/- is awarded on account of pain and sufferings and there was delay in lodging the F.I.R. The claimants of the claim case have filed another appeal being FMA 612 of 2025 being aggrieved by the judgement and award passed by the learned Trial Judge. The grounds on which the judgement and award is assailed is that the learned Trial Judge ought to have considered the notional income of Rs.15,000/- instead of Rs.6,000/-. Secondly, on the basis of the notional income of Rs.15,000/- per month, total compensation should be enhanced.

Heard learned advocates for the parties.

Perused the evidence adduced and the materials on record as well as supplementary paper book, which is filed today with the leave of this court.

The following decisions are relied upon by the learned advocates:

(1) Sebati Nath & Ors. Vs. Shriram General Insurance Company Ltd. arising out of SLP (C) No. 26253/2025.

(2) Chandra @ Chanda @Chandraram & Anr. Vs. Mukesh Kumar Yadav & Ors. [Civil Appeal No. 6152 of 2021 arising out of S.L.P. (C) No. 6466 of 2019]

It is submitted by the learned advocate for the claimants/appellants that the appellant/claimants have been able to prove the monthly income of Rs.15,000/- by oral evidence. Learned advocate further submits that on the basis of the decisions relied upon it can be easily inferred that the victim used to earn Rs.15,000/- per month.

Upon perusing the judgement and award passed by the learned Trial Judge and considering the materials on records it appears that the learned

Trial Judge in the judgement and award dated 24.12.2024 with regard to the income of the victim observed as follows:

"Next comes to the question of the income of the victim. In order to prove the same, the claimants have filed one certificate of fitness of vehicle no. WB-31A/3034 goods carrier but it does not have the name of the owner. Therefore, this Tribunal is not in a position to conclude that deceased Arun Giri was owner of the vehicle as there is no other document to prove the earning. Learned Tribunal is taking Rs.6,000/- as notional income per month for calculating the question of compensation. Upon perusing the evidence and considering the materials on records it appears that no proof with regard to the ownership of the vehicle was submitted before the learned Trial Court. Learned Trial Court did not commit any error with regard to the proceedings on the basis of the notional income of Rs.6,000/- per month.

However, as the supplementary paper book is filed at the appellate stage annexing the documents with regard to the permit in the name of the victim along with the vehicle number, these documents should not be discarded. Thus, if the documents and the oral evidence read together, it can be inferred that the victim was engaged in transport business and had a truck in his name. However, in the absence of any income tax return or bank accounts or relevant documents, it would be just and reasonable to consider the monthly income of the victim as Rs.12,000/- per month. Thus, the monthly income of the victim is considered as Rs.12,000/-. In the event the monthly income comes to Rs.12,000/-, future prospect added comes to Rs.3,000/-., thus, total monthly income comes to Rs.15,000/-. One-third should be deducted on account of personal expenditure which is Rs.5,000/- and the net monthly income comes to Rs.10,000/-. Net monthly income being Rs.10,000/- the annual dependency loss comes to Rs.1,20,000/- As the victim was 46 years age employee, 1/3 should be applied and the total dependency loss comes to Rs.15,60,000/-. With regard to the submissions of the learned advocate for the appellant/Insurance Company that Rs.1,50,000/- is awarded on account of future prospect and Rs.2,00,000/- is awarded on account pain and sufferings, this court is of the view that this submission has some substance and the findings of the learned Trial Court with regard to the pain and sufferings and future prospect cannot be sustained.

However, with regard to the delay in lodging the FIR as it has held in different judicial pronouncements that in Indian society the injured persons' family run to hospital and not to police station and this is a case where death has taken place in the family, the delay in lodging the FIR cannot be said to be fatal.

In the facts and circumstances of the case, as discussed above, Rs.16,50,000/- compensation comes by arithmetical calculation. However, this court is of the view that compensation of Rs.16,00,000/- is just and reasonable. Thus, the appellant/National Insurance Company Ltd. shall pay Rs.16,00,000/- to the claimants/respondent nos. 1, 2 and 3 in equal shares along with interest @ 6 per cent per annum from the date of filing of the claim case till today.

The said amount shall be deposited before the Registrar General, High Court, Calcutta within a period of eight weeks from the date of communication of this order.

It is hereby made clear that in the event the amount awarded by the learned Trial Court is already deposited, the balance amount shall be deposited. The claimants/respondent nos. 1, 2 and 3 of FMA 1061 of 2025 is entitled to withdraw the awarded sum deposited along with accrued interest, if any, upon compliance of all the necessary formalities.

The two appeals being FMA 1061 of 2025 and FMA 612 of 2025 stand disposed of.

(Biswaroop Chowdhury, J.)