

22.01.2026
Sl. No. 36
g.b.
Court No.09

FMA 967 of 2025
With
CAN 2 of 2024

Shib Sankar Biswas & Ors.
-Vs-
The Oriental Insurance Co. Ltd. & Anr.

Mr. Muktakesh Das
Ms. Sonali Bag
.....For the Claimants
Mr. Rajesh Singh
.....For the Insurance Co.

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

This appeal is directed against the judgement and award dated 6th day of November, 2017 passed by learned Additional District Judge, 4th Court, Nadia at Krishnanagar in M. A. C. Case No. 451 of 2010.

The appellants/claimants being aggrieved with the quantum of the compensation awarded have come up with the instant appeal. Before proceeding to hear the appeal the application being CAN 2 of 2024 which is filed for deletion of the name of appellant no.1 is taken up for consideration.

The appellant nos. 2 to 6 have filed the application for deletion of the name of appellant no.1

on account of his death as the appellant nos. 2 to 6 are the legal heirs of the appellant no.1. It is the contentions of the appellant nos. 2 to 6 in the supplementary affidavit that save and except the appellant nos. 2 to 6 there are no other legal heirs of appellant no.1. Let the name of the appellant no.1 be deleted from the cause title.

The application being CAN 2 of 2024 stands disposed of, let necessary amendments be carried out.

The appellants have challenged the award of the Learned Trial Judge on the ground that Rs.5 lakhs on account of compensation ought to have been awarded but the Learned Trial Judge has awarded Rs. 1, 24,500/-. Upon hearing the learned advocates and considering the latest amendment of the Motor Vehicles Act where the specific amount of Rs. 5 lakhs is provided for compensation under Section 164 of the said Act and upon considering the decision of the Hon'ble Supreme Court in the case of New India Assurance Co. Ltd. & Ors. Vs. Urmila Halder, this court is of the view that compensation amount of Rs. 5 lakhs ought to have been awarded by the Learned Trial Court.

In the facts and circumstances of the case this appeal stands allowed. Judgement and award

passed by learned Additional District Judge, 4th Court, Nadia at Krishnanagar in M. A. C. Case No. 451 of 2010 is modified to the extent that the appellants/claimants shall be entitled to Rs.5 lakhs compensation from the respondent no.1/Oriental Insurance Co. Ltd.

It is submitted by the learned advocates that the amount awarded by the Learned Trial Court is already paid. The respondent no.1/Oriental Insurance Co. Ltd. shall then pay the balance sum of Rs. 3,75,500/- (Rupees three lakhs seventy-five thousand five hundred) along with interest @ 6 per cent per annum from the date of filing of the claim case till today. Such deposit shall be made before the Registrar General, High Court, Calcutta within a period of eight weeks from the date of communication of this order.

Upon deposit being made, the appellants/claimants will be entitled to withdraw the said deposit upon compliance of all the necessary formalities.

Urgent photostat certified copy of this order, if applied for, be given to the parties after compliance of all necessary formalities.

(Biswaroop Chowdhury, J.)