

01.04.2026

**Sl. No.08
Ct. No. 09
Sws.M**

FMA 1306 of 2025

**Sarathi Patra and Ors.
vs.
The New India Assurance Company Limited &
Anr.**

Mr. Amit Ranjan Roy
...for the appellants/claimants

Ms. Sucharita Paul
....for the respondents
/ Insurance Company

Learned advocates for the parties are present.

Heard learned advocates.

The appellants before this Court were claimants in a case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award passed by the learned Additional and Sessions Judge, 3rd Court, Paschim Medinipur in MACC case No. 408 of 2018. The case of the claimants/appellants before the learned Trial Court may be summed up thus.

On 18.02.2018 at about 11.30 P.M. when the deceased person, namely, Goutam Patra was coming from Kharagpur towards Khajra as a pillion rider of a motorcycle and the said motorcycle reached near Gopali Ashram (Kharagpur to khajra Pitch road), P.O. Gopali, P.S. Kharagpur Local, Dist.

Paschim Medinipur, at that time, the driver of the motorcycle bearing Registration No. WB-34AS/96 (Hero Super Splendor) suddenly drove at a high speed in a rash and negligent manner and fell down on the road. As a result the pillion rider, Goutam Patra having grievous injury on his head and body. With the help of some local people he was first admitted to Kharagpur S.D. Hospital on 18.02.2018 at 12.00 midnight and due to bad condition he was further admitted to Midnapur Medical College and Hospital on 19.02.2018 at about 3 a.m. and as per advice of the doctor of Midnapur Medical College and Hospital he was further admitted at Nilratan Sarkar Medical College and Hospital on 19.02.2018 for better treatment. But unfortunately he died on 26.02.2018 at about 11.45 a.m. The accident took place due to the rash and negligent driving of the driver of the offending vehicle bearing registration No. WB-34AS/9600.

Pursuant to the filing of this case notice was issued upon the opposite party/vehicle owner and the opposite party/Insurance Company. The opposite party /Insurance Company contested the case by filing written statement. However, the opposite party/vehicle owner although appeared but did not file written statement and neither contested

the case. Issues were framed and evidenced were adduced.

Upon considering the evidence and upon hearing the learned advocates, 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 case filed u/s 166 of Motor Vehicles Act, 1988 is allowed on contest as against the O.P. No-2/ New India Assurance Company Limited and ex-parte against the O.P No-1/owner.

The petitioners/claimants no.1 ad 2, ad 3 namely Smt. Sarathi (wife), Menu Patra (mother) and Minor Beauty Patra (minor daughter) respectively do get an award of Rs.11,41,000/- (Rupees Eleven lakhs forty one thousand only) in total in equal share and Claimant No.4 Sri Aloke Patra to receive parental consortium of Rs.40,000/- (forty thousand) only.

The amount of compensation, as awarded, shall carry a simple interest @ 4% per annum from the date of filing of this claim application, i.e 27.07.2018 till final realization of the entire amount.

The O.P. No-2/Insurer, New India assurance Company Limited is directed pay the awarded amount to the petitioners/claimants no.1 to 2, and 3

namely Smt. Sarathi (wife), Menu Patar (mother) ad Minor Beauty Patra (minor daughter) in equal share with interest within three months from the date of this order and the same to be defrayed without deduction of any TDS, whatsoever, over the interest amount or the awarded amount, after deposit of deficit court fees by the claimants before the tribunal, in default, the petitioners shall be at liberty to put this award in execution in accordance with law.

The petitioner no.1 is directed to deposit the share of the Minor Priyanka Roy (petitioner no.2) either with a Nationalized bank or with a Post Officer in a long term deposit separately till the attainment of the majority of her minor sons ad to report of compliance to this court within 15 days from the date of receipt of the cheque."

The appellants/claimants being aggrieved by the quantum of compensation awarded have come up with the instant appeal.

Heard learned advocate for the appellants/claimants and learned advocate for the respondent No. 1/ New India Assurance Company Limited. Perused the materials on record.

Learned advocate for the appellants/claimants submits that the learned Trial Judge erred in

considering the notional income as Rs.5,000/-, although the claimants proved the occupation of the victim. Learned advocate further submits that the compensation awarded should be enhanced.

Learned advocate for the respondent No. 1 disputes the submission of learned advocate for the appellants and submits that the compensation awarded is just and reasonable.

Upon hearing the learned advocates and considering the evidence adduced it appears that the claimant/P.W. 1 has contended that the victim was helper of a bus being No. WB-33D3786. Although no documents are filed by the claimants with regard to the occupation of the victim as a helper but the specific contention of the claimants that the victim was a driver by giving the registration number of the vehicle and the route in which the said vehicle was plied, the occupation of the victim cannot be ruled out.

However, as the claimants failed to prove the income of the victim, this Court is of the view that it would be just and reasonable to treat the notional income as Rs.7,000/- per annum be taken into consideration for arriving at the compensation. In the event, the monthly income is Rs.7,000/- per annum, 40% future prospect added the net monthly

goes to Rs.8,500/-. The annual income comes to rs.1,17,600/- and the multiplier of 17 should be applied considering the age of the victim. Thus the gross dependency loss is Rs.19,99,200/- , 1/4th should deducted on personal expenses, the personal expenses being Rs.4,99,800/- the total dependency loss comes to Rs. 14,99,400/-. The appellants/claimants are entitled to the general damages of Rs. 1,10,000/- as awarded by the learned Trial Court. Thus, the appellants/claimants are entitled to Rs.16,09,400/- by arithmetical calculation. However, this Court is of the view that compensation of Rs.16,00,000/-is just and reasonable. Thus the appellants/claimants are entitled to compensation of Rs.16,00,000/- from the respondent No. 1/New India Assurance Company Limited along with interest @6% per annum from the date of filing of the claim case till today. The respondent No. 1/New India Assurance Company Limited shall deposit Rs.16,00,000/- before the Registrar General, High Court, Calcutta along with interest @ 6% per annum. Such deposit shall be made within eight weeks from the date of communication of this order.

It is submitted by the learned advocate for the appellants that the appellants have received the

compensation amount which is awarded by the learned Trial Court. As the learned advocate submits that the amount of compensation awarded by the learned Trial Court, is already paid, balance amount of Rs. 4,19,000/- be deposited before the Registrar General, High Court, Calcutta along with interest @6% per annum from the date of filing of the claim case dated 27.07.2018 till today.

The appellants/claimants will be entitled to withdraw the compensation upon compliance of necessary formalities.

Accordingly, **FMA 1306 of 2025** stands **disposed of.**

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Biswaroop Chowdhury, J.)