

S/L 3
22.04.2026
Court No.9
Swd

FMA 1149 of 2024

National Insurance Co. Ltd.
Vs.
Md. Soeb & Anr.

Mr. Rajesh Singh.
... for the Appellant/Insurance Company.

Mr. Pingal Bhattachatrya,
Mr. Rajdeep Sinha.
... for the Respondent/Claimant.

1. The learned Advocate for the parties are present.
2. Heard the learned Advocates.
3. The appellant before the this Court was an opposite party in a case under Section 166 of the Motor Vehicle Act, 1988 and is aggrieved by the judgment and award dated 08.04.2024 passed by the learned Additional District Judge, 1st Court, Tamluk, Purba Medinipur in MAC Case No. 390 of 2014.
4. The case of the claimants/respondents Nos.1 and 2 may be summed up thus:
5. On 30.12.2013 at about 1.00 a.m., the victim was going from Tamluk to Kolaghat by the offending vehicle bearing number WB-30P-5366 as a friend through Tamluk-Mecheda Pitch Road. The said vehicle was going with extreme high speed, endangering to human life and safety, when the said vehicle reached at Burari

petrol pump, it dashed one road roller with great force. As a result, the victim sustained grievous injury all over the body, specially on head and died on spot. The accident occurred due to rash and negligent driving on the part of the driver of the offending vehicle bearing No.WB-30P-5366.

6. The victim was a businessman. He was the only earning member of his family. Due to the death of the victim, the parents of the victim are facing with great economic crisis.
7. Pursuant to the filing of this case, notice was issued upon the opposite parties. The opposite party National Insurance Company Limited contested the case by filing written statement and the other opposite parties did not contest the case. Issues were framed and evidence was adduced.
8. By judgment and award dated 8th April, 2024, learned trial judge was pleased to dispose of the claim case by observing and directing as follows:-
“That the instant M.A.C.C. No. 390 of 2014 be and same is allowed on contest against OP. No.6, National Insurance Co. Ltd and ex-parte against the OP No.1 to 5 without costs.
The Claimant/Petitioner does get award of Rs.27,64,314/(Rupees Twenty Seven Lakhs Sixty Four Thousand Three Hundred & Fourteen only) as compensation along with interest @ 6% per

annum from the date of the filing of the claim petition till realization of the award.

OP No.6, National Insurance Co. Ltd being the insurer of the Vehicle bearing Registration No. WB-30P/5366 is directed to pay the compensation award by issuing Account Payee Cheques together with interest thereon @ 6% per annum in favour of the Petitioner/Claimant, at the first instance and then recover the same from the owner of the offending vehicle following the due process of law, within 60 (Sixty) days from the date of order i.d. the Claimant/Petitioner will be at liberty to realize the awarded amount through execution.”

9. The appellant National Insurance Company Limited being aggrieved by the judgment and award passed by the learned trial judge has come up with the instant appeal.
10. Heard learned advocates for the parties and perused the evidence adduced and materials on record.
11. Learned Advocate for the appellant submits that there is a dispute in this case as another case which was instituted in the court with regard to the said accident being MAC case No.150 of 2014 by the parents of another victim who died in the said accident was dismissed.
12. However, learned Advocate also submits that that said facts were not incorporated in the written

statement nor in the evidence before the learned trial court who has passed this judgment and award under appeal. Thus, this Court is of the view that there is no scope to reopen that particular issue.

13. Upon further consideration of the materials on record and upon hearing the learned Advocates, this Court is of the view that the learned Trial Judge upon considering the evidence of the witnesses and the documentary evidence filed came to the conclusion of rash and driving by driver of offending vehicle No.WB-30P-5366. Learned judge also considered the evidence with regard to the income of the victim and awarded compensation as well as right to recovery from the vehicle owner.
14. Upon hearing the learned advocates and perusing the judgment of the learned Trial Court this court is of the view that no grounds is made out by the appellant to interfere in the judgment and award assailed in this appeal.
15. Thus, this appeal stands dismissed. The judgment and award dated 08.04.2024 passed by learned Additional District Judge, 1st Court, Tamluk, Purba Medinipur in MAC case No.390 of 2014 stands affirmed. The right to recovery as passed by the learned Trial Court cannot be interfered with as no appeal has been preferred

against the said order by the vehicle owner. Thus, the appellant/Insurance Company will have the right to recovery in terms of the order passed by the learned Trial Court. The respondent No.1/Claimant is permitted to withdraw the compensation amount deposited in Court including accrued interest, if any, upon compliance of all necessary formalities.

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

(BISWAROOP CHOWDHURY, J.)