

26.02.2026
Item No.41
Ali
ct. no.9

**FMAT (MV) 492 of 2024
With
IA NO.:CAN/1/2025**

**Babulal Saha
Vs.
Cholamandalam M.S. General Insurance Co. Ltd. & Anr.**

Mr. Muktakesh Das,
Mr. Arpayan Mukherjee
....for the appellant/claimant.

Mr. Aniruddha Singh
.....for the respondent/Insurance Co.

IA NO.:CAN/1/2025

1. Learned advocates for the parties are present.
2. The application for condonation of delay is taken up for consideration.
3. Upon hearing the learned advocates this Court is of the view that the delay should be condoned. Thus, I condone the delay in preferring the appeal.
4. The application being CAN 1 of 2025 is disposed of.

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5. Heard learned advocates for the parties.
6. The appellant before this Court was a claimant in a case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award dated 20th day of August, 2024 passed by

learned Additional District Judge, 3rd Court, Krishnagar, Nadia, in M.A.C. Case No.139 of 2016.

7. The case of the claimant before the learned Trial Court may be summed up thus:

"on 23.06.2014 at about 13.45 hours the claimant was going towards kalyani driving lorry No. WB-25C/4976 by the left side of NH 34 at Tantigachi in front of the house of Subrata Sarkar. Another lorry bearing registration No. WB-25D/9100 came from Kolkata with high and excessive speed in negligently and going towards Chakdaha to its extreme right side dashed against the Lorry No. WB-25C/4976 as a result driver of the said lorry No. WB-25C/4976 sustained serious injuries on his person and legs. Seeing the accident the local people took the claimant/victim to Ranaghat SD Hospital admitted him there and thereafter referred him to Kolkata but the claimant was admitted at Bhattacharjee Orthopedic & Related Research Center (P) Ltd. at Nrayanpur and discharged on 23.07.2014. Due to high speed rash and negligent driving of the lorry No. WB-25D/9100 the accident took place. The petitioner is now 70% disabled person and is unable to do work.

8. Pursuant to the filing of this case notice was issued upon the opposite parties. Opposite party vehicle owner did not contest the case. However, the respondent No. 1 (Cholamandalam M.S. General Insurance Co. Ltd.) contested the case by filing written statement. Issues were framed and evidence was adduced.
9. Upon hearing the learned advocates and considering the evidences 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 claim case, filed under U/s. 166 of the M.V. Act 1988 in MAC case no.139 of 2016 is allowed on contest against the OP no. 2 and exparte against the OP no. 1 i.e. Owner of the vehicle bearing Registration No.WB-25D/9100.

That the petitioner namely Babuylal Saha do get an award of Rs.5,98,200/- (Rupees five lakhs ninety eight thousand two hundred) only. The O.P. Insurance Company i.e. Cholamandalam M.S. General Insurance Co. Ltd. is directed to pay a sum of Rs.5,98,200/- (Rupees five lakhs ninety eight thousand two hundred) only within two months from this day along with interest @ 6% per annum from the date of filing the instant application till realization of the award. However, OP. Insurance Co. is exempted from paying the interest between

the period from 25.03.2021 due to pandemic of Covid-19.

The opposite party no. 2 i.e. Cholamandalam M.S. General Insurance Co. Ltd. is directed to pay the said amount to the petitioner presently by an account payee cheque.

The petitioner is entitled to receive the cheque on payment of deficit Court fees as per rules, if not paid.

The claimant is directed to furnish his photograph before receiving his cheque.

A copy of this judgment be given to the O.P. no. 2 (The Cholamandalam M.S. General Insurance Co. Ltd.) free of cost for compliance.

A free copy may also be given to the claimant upon his paying the full court fee, if not already paid. ”

10. Claimant/appellant being aggrieved by the quantum of compensation awarded by the learned Trial Judge has come up with the instant appeal. Heard learned advocate for the appellant/claimant and learned advocate for the respondent No. 1/Insurance Company perused the materials on record.
11. Learned advocate for the appellant/claimant submits that the learned Trial Judge erred in not considering the future prospects while assessing the compensation. It is further stated that the learned judge ought to have assessed the

disability more than the disability which the learned judge has assessed. It is also submitted that the learned Judge ought to have awarded interest from the date of filing of the claim case till the date of realization but the Covid period interest is excluded.

12. Mr. Singh, learned counsel for the respondent No. 1 disputes the submission of the learned advocate for the appellant.

13. Upon hearing the learned advocate and considering the facts of the case this Court is of the view that considering the nature of the injury period of stay at the hospital and the percentage of disability suffered the quantum of compensation should be enhanced. Thus, the compensation should be as follows:

Monthly Income Rs.8,000/-, Annual Income comes to Rs. 96,000/-. 25% future prospect if taken into consideration, the total annual income comes to Rs.1,20,000/-. 70% disability brings the loss quantum to Rs.84,000/-. The multiplier of 14 is to be applied and the loss of income due to disability is Rs.11,76,000/-. Further on account of pain and suffering this Court is of the view that the claimant should get Rs.1,00,000/- for Medical Expenses Rs.1,75,000/- , Attendant Rs.15,000/- and loss due to disability and disfigurement

Rs.1,00,000/-. Thus, the total compensation on account of accident comes to Rs. 7,83,000/- by an arithmetical calculation. However, this Court is of the view that Rs.8,00,000/- compensation is just and reasonable.

14. Thus, the claimant/appellant is entitled to compensation of Rs.8,00,000/- from the respondent No.1/ Cholamandalam M.S. General Insurance Co. Ltd. along with interest @ 6% per annum from the date of filing of the claim case till today.

15. The respondent No.1/ Cholamandalam M.S. General Insurance Co. Ltd. shall deposit the compensation amount along with interest within a period of eight weeks from the date of communication of this order. In the event the amount directed by the learned Trial Court is already paid or deposited the balance amount shall be deposited.

16. The appellant/claimant is entitled to withdraw the sum deposited upon compliance of all necessary formalities.

17. The instant FMAT (MV) 492 of 2024 is disposed of.

18. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Biswaroop Chowdhury, J.)