

Court No. 9
16.02.2026
(Item No. 1)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

F.M.A.T. 1454 of 2011

Sri Dipankar Dey
VS
National Insurance Company Limited & Anr.

Mr. Niranjan Maity
Ms. Indrani Ghosh
.... For the appellant
Mr. Rajesh Singh
.... For the respondents

Learned advocates for the parties are present.

Heard the learned advocates for the parties.

The appellant before this Court was a claimant in a case under 166 of the Motor Vehicles Act, 1988 and is aggrieved by the Judgment and Award dated 31-5-2010 passed in MAC Case No. 25 of 2009.

The case of the claimant/appellant before the learned Trial Court may be summed up thus:

At the material time of accident on 17.11.2003 while the victim Dipankar Dey was going towards Garia from Baruipur travelling by a autorickshaw bearing No. WB 04B 4326 the driver of offending vehicle No. WB 04B 4326 was proceeding with the vehicle rashly and negligently and thereby dashed the standed vehicle by the side of the road at the time of overtaking another autorickshaw. As a result the said occupant of the autorickshaw namely, Dipankar Dey sustained severe injuries on his person causing

permanent disablement. Rash and negligent driving of the driver of offending vehicle No. WB 04B 4326 was a sole and direct cause for this pathetic accident which could easily be avoided, had the driver been not reckless, rash and negligent and could have taken reasonable care and attention while driving the said vehicle. The injured Dipankar Dey had an active life and energy till the date of accident. But after the accident and owing to sustaining permanent disablement he has lost his active life and energy and unable to lead a normal and pleasurable life. He had become completely dependent upon the assistance and help of others. The applicant has sustained immense pecuniary loss because of sufferings from perpetual shock and mental agony.

Pursuant to filing of the claim case notice was issued upon the opposite parties. The opposite party/respondent No. 1, National Insurance Co. Ltd. contested the case by filing written statement. Evidence was adduced and the learned Trial Court upon considering the evidence and upon hearing the learned advocate for the parties 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 be and the same is allowed on contest against

the OP. No-2 and allowed ex-parte against the OP No.-1.

Petitioner do get compensation amounting to Rs.75,360/- (Seventy five thousand three hundred sixty) together with interest @ 7% (seven percent) per annum from the date of filing of this case i.e. from 26.04.05 to till the date of realization.

While indemnifying the OP No-2 shall issue A/C payee cheque for the aforesaid amount in the name of petitioner/victim.

O.P. No. 2 further directed to pay the aforesaid amount within two months from this date failing which petitioner shall have right to put the order in execution.

Let a copy of this order be supplied to the O.P. No. 2 as free of cost for compliance.'

The claimant/appellant being aggrieved by the Judgment and Award passed by the Learned Trial Court has come up with the instant appeal.

Learned advocate for the appellant submits that the learned Trial Judge erred in not considering the private tuition as stated in the claim case and relied only upon the income which the appellant earned from the school. Learned advocate further submits that the future prospect was also not taken into consideration by the learned Judge and the wrong multiplier applied which ought to have been 11.

Learned counsel appearing for the respondent No. 1, Insurance Company submits that the age which the claimant/appellant was able to prove before the learned Trial Court the learned Trial Court applied the multiplier on the basis of the said age.

Thus, the argument with regard to the multiplier cannot be sustained.

Learned counsel also relies upon the evidence of the Doctor and submits that the Doctor has neither treated the patient nor was the medical certificate issued by the Board and from the nature of fracture injury mentioned in the medical certificate it does not fall under the permanent disability.

Learned advocate also relies upon the following decisions:

1. Raj Kumar Vs. Ajay Kumar & Ors. reported in 2011 (1) T.A.C. 785 (S.C.) and
2. Bajaj Allianz General Insurance Company Private Ltd. Vs. Union of India & Ors. reported in MANU/SCOR/43928/2021 before the Supreme Court of India.

Upon hearing the learned advocates and considering the decisions relied upon by both the parties it appears that although the Doctor, P.W. 3 in his evidence and in the medical certificate opined 50% permanent partial disability but the fact that there is no evidence nor any statement in the claim petition

that the claimant at present lost his work the 30% disability which is considered and decided by the learned Trial Court cannot be interfered with. However, as the Courts dealing with the Motor Accident Claim cases is to pass just and reasonable compensation and on considering the fact that the amount granted by the learned Trial Court on account of pain and sufferings and medical expenses is meagre this Court is of the view that considering the fact that medical expenses are always incurred when a person is admitted in hospital and for the purpose of future treatment in the view of this Court a total compensation to Rs.2,00,000/- would be just and reasonable.

Thus, the appellant is entitled to a compensation of Rs.2,00,000/- along with interest @ 6% per annum from the date of filing claim case till today from respondent no. 1, Insurance Company. The respondent No. 1, Insurance Company shall deposit Rs.2,00,000/- before the Registrar General, High Court, Calcutta within eight weeks from the date of communication of this order. In the event, the sum awarded by the learned Trial Court is already paid or deposited, the balance amount shall be deposited within eight weeks from the date of communication of this order.

The appellant/claimant will be entitled to withdraw the sum deposited upon compliance of the necessary formalities.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)