IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A.T (MV) 555 of 2025

With

IA No.: CAN/2/2025

Ranjit Shil @ Ranjit Sill & Ors.

VERSUS

New India Assurance Co. Ltd. & Ors.

For the appellants/claimants:	Mr. Jayanta Banerjee, Adv. Mr. Sandip Bandyopadhyay, Adv. Ms. Ruxmini Basu Roy, Adv.
For the respondent/Insurance Companies:	Ms. Gopa Das Mukherjee, Adv.

Last Heard on: February 11, 2026

Judgment on: February 27, 2026

Biswaroop Chowdhury,J:

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 14-02-2025 passed by Learned Additional District Judge 3rd Court Krishnanagar Nadia in MAC case No. 124 of 2016.

The case of the claimants/appellants before the Learned Trial Court may be summed up thus;

On 19-01-2016 at about 00.30 hours while the deceased the pillion rider of a motorcycle bearing No. WB-52E/2503 was going to Ranaghat from Santipur through NH-34 near Habibpur Kalabagan a truck bearing No-WB-57/7814 coming from Krishnanagar side running at a very high and excessive speed and proceeding towards Kolkata side i.e. same direction lost control and dashed behind the said motorcycle at that time in the trickling of an eye another vehicle bearing No. WB-23B/1705 heavy truck coming from opposite direction running also at a very high and excessive speed lost control and dashed behind the said motorcycle also the stationary truck as a result of which motorcyclist and the pillion rider both of them were thrown off the road and rolled over by the wheels of the said heavy truck bearing No. WB-23B/1705 resulting in grievous injuries on their person. They were taken to Ranaghat S.D. Hospital where the MO. declared both of them as dead. The autopsy over the dead body was held at that hospital on 19-01-16 bearing PM. No. 29/16 dt. 19.01.16 in connection with Ranaghat PS. U/D. Case No. 12/2016 dt. 19-01-16.

The accident was the result of rash and negligent driving of the vehicle trucks. There was no negligence on the part of the deceased pillion rider as well as the motorcyclist who was driving motorcycle at a slow moderate speed and very cautiously.

The deceased was the skilled mechanic of 87 power looms of Village Aistala Ranaghat and its surrounding areas. He used to earn Rs. 3,000/- per month from each power loom for maintaining smoothly running condition.

The offending vehicle bearing No. WB-57A/7814 truck at first dashed behind the motorcycle but at the time of lodging FIR before Ranaghat P.S. Nadia the informant due to inadvertence mentioned the vehicle bearing No. WB-57B/7814 but Ranaghat Police during investigation seized the offending vehicle WB-57A/7814 instead of FIR mentioned vehicle along with its all connected papers arrested the driver of the offending vehicle and after completion of investigation finally submitted charge sheet against the drivers of both the vehicles trucks.

Pursuant to filing of this case notice was issued upon the opposite parties. The opposite parties vehicle owners did not contest the case. Opposite parties The New India Assurance Company Ltd. contested the case by filing written statement ISSUES were framed and evidence was adduced. By Judgment and Award dated 14th day of February 2025 the Learned Trial Judge disposed the claim case by observing and directing as follows:

'Hence it is ORDERED that the instant application registered as MAC Case No. 124 of 2016 u/s-166 of the MVAct 1988 is allowed on contest against the OP No-2 without cost.

The OP/Insurance Companies Ltd. i.e. New India Assurance Company Ltd. and the Reliance General Insurance Company Ltd. directed to pay Rs.

1,92,500/- each. (i.e. in equal proportion of Rs. 3,85,000/-) to claimants/petitioners.

The New India Assurance Company Ltd shall pay an amount of Rs. 48,125/- each to the petitioners/claimants namely 1) Ranjit Sill 2) Manika Sheal 3) Minor Avijit Sill @ Seal, 4) Minor Konika sill. Similarly The Reliance General Insurance Company Ltd. shall pay an amount of Rs. 48,125/- each to all the above named petitioners/claimants vide four separate cheques.

The amount of compensation shall be paid by both the OP/Insurance Companies Ltd. within two months from this day along with interest @6% per annum from the date of filing of this instant application till the realization of the award. However O.P./Insurance Companies Ltd. are exempted from paying the interest for the period between 25-04-2020 to 31/12/2021 due to Covid-19 Pandemic. In respect of the minor claimants i.e. the petitioner No-3 namely Avijit Sill @ Seal and Petitioner no. 4 Kanika Sill the petitioner no. 1 Ranjit Sill who is representing the minor claimants as next friend/guardian being the eldest son/guardian being the eldest son of the deceased shall collect the cheques in respect of the compensation, awarded to the minor claimants and shall deposit the same in the name of the minor claimants in a nationalized Bank or Post Office in a fixed deposit within 15 days from receipt of the cheques till the minors/claimants attains majority and shall submit documents in respect of such deposits in the name of minor claimants and thereafter the cheque issued in the name of petitioner no-1 shall be issued/given to him.

The petitioners/claimants are entitled to receive the cheque on payment of deficit Court fees as per rules if not already paid.'

The appellants/claimants being aggrieved by the Judgment and Award passed by the Learned Trial Judge has come up with the instant application.

Heard Learned Advocate for the appellants and Learned Advocate for the respondent no. 1 and 2 perused the materials on record.

Learned Advocate for the appellants submits that the appellant was a skilled mechanic and he was engaged by employers of 87 different power looms. Thus the victim cannot earn less than Rs. 26,000/- Per month.

Learned Advocate for the appellant further submits that the claimants deposed that age of the victim was 50 years which ought to have been considered but the Learned Trial Judge considered the age in post mortem report which is 60 years. Learned Advocate also submits that the interest on compensation awarded is low.

Learned Advocate for the respondent no-1 and 2 Insurance Companies submits that the claimants did not produce any document to support the income of the victim thus the Learned Trial Judge rightly proceeded to assess compensation on the basis of notional income of Rs. 5,000/- Learned Advocate further submits that the claimants could not produce any documents with regard to age of victim thus the Learned Trial Court rightly proceeded on the basis of the age stated in Post Mortem Report. Learned Advocate also submits that the compensation awarded is just and should not be interfered with.

As the ground of challenge in this appeal is with regard to the quantum of compensation awarded by the Learned Trial Court it is necessary to consider the evidence adduced by the claimants with regard to the income of victim.

It is an admitted position that no documents were furnished with regard to the income of the victim. Thus it is necessary to consider the occupation in which the victim was engaged. It appears from claim petition that the claimants have stated that the victim was skilled mechanic of the power looms. It is further stated that Dilip Ghosh and other power loom proprietors received his services. The specific statement of P.W. 1 with regard to occupation cannot be disbelieved. Although there was no fixed salary but considering the fact that the victim from the District of Hooghly came to Nadia to earn his livelihood and run his family at Hooghly it is not unnatural to earn atleast Rs. 12,000/- per month. Thus Rs. 12,000/- per month should be the notional income on which compensation should be computed. However with regard to the use of multiplier regarding age as there was no document regarding proof of age Learned Trial Judge had to consider age as per post mortem report and apply the multiplier, which should not be interfered with.

Now if the monthly notional income is Rs. 12,000/- annual income comes to Rs. 1,40,000/-. 1/4th should be deducted on account of personal expense. Thus upon deducting personal expenses annual dependency loss comes to Rs. 1,08,000/-. Multiplier of 7 applied to annual dependency loss the total dependency loss comes to Rs. 7,56,000/-. Further the claimants are entitled to get Rs. 30,000/- on account to funeral expenses and loss of estate. Thus Rs. 7,86,000/- is the total compensation by arithmetical calculation which the appellants are entitled to from the Respondent no-1 and 2. Insurance Companies. However this Court is of the view that compensation of Rs. 800,000/- is just and reasonable. Thus the appellants/claimants are entitled to compensation of Rs. 4 lakh each from New India Assurance Company Limited and Reliance General Insurance Company Limited along with interest @6% p.a. from the date of filing claim case till today.

Hence FMAT-(MV) 555 of 2025 stands disposed. The Judgment and Award dated 14th February 2025 passed by Learned Additional District Judge 3rd Court Krishnanagar Nadia is modified to the extent that the Appellants/claimants are entitled to compensation of Rs. 400,000/- each from respondent no-1 and 2. New India Assurance Company Limited and Reliance General Insurance Company Ltd. respectively along with interest @6% p.a. from date of filing claim case till today. Such payments shall be made by depositing the same before the Registrar General High Court Calcutta within 8 weeks from the date of communication of this Order. In the event amount awarded by Learned Trial Court is already deposited balance amount shall be deposited.

The claimants/appellants are entitled to withdraw the amount upon compliance of 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.)