

Item 20.04.
No. 2026
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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMAT (MV) 556 of 2025
With
IA NO: CAN 1 of 2025
CAN 2 of 2025

Bajaj Allianz General Insurance Company Limited
Vs
Gobinda Prasad Musib & Ors.

Mr. Rajesh Singh.

... for the appellant.

Mr. J. K. Mandal.

... for the respondent Nos. 1 and 2.

In Re: CAN 1 of 2025

Learned advocates for the parties are present.

The application being CAN 1 of 2025 is taken up
for consideration for condoning the delay.

Upon hearing the learned advocates and
considering the petition filed this Court is of the view
that sufficient cause is shown. Thus, the delay in
filing this appeal is condoned. The application being
CAN 1 of 2025 stands disposed of.

As the claim case was filed under Section 163A
of the Motor Vehicles Act, 1988, this Court is of the
view that the filing of paper books and calling for the
Trial Court Records be dispensed with. The appeal
itself is taken up for hearing by consent of the learned
advocates.

The Learned Trial Judge by the judgment and award dated 20.03.02025 was pleased to award compensation in favour of respondent nos. 1 and 2 by observing and directing as follows:

“Hence, it is,

ORDERED

that the application under section 163A of the M.V. Act, 1988 is allowed on contest against the opposite party No.2 (Bajaj Allianz General Insurance Co. Ltd.), and ex parte against the opposite party No.1 (owner), without any cost.

The petitioners namely (1) Gobinda Prasad Musib (husband of the deceased) and (2) Joyita Musib (married daughter of the deceased) shall get an award from the Opposite Party No.2 (Bajaj Allianz General Insurance Co, Ltd.) of a sum of Rs. 5,50,000/- (Rupees Five Lacs and Fifty Thousand only) as compensation along with 6% simple interest per annum on the said amount to be calculated from the date of filing of this case, i.e. from 17.06.20 till the actual deposit of the amount.

It is made clear that since the claim ordered herein is not an income of the claimant, no TDS shall be deducted on the claim amount including the interest on the same.

The Opposite Party No.2, (Bajaj Allianz General Insurance TTRAC Co. Ltd.) is hereby directed to pay

the aforesaid amount of compensation along with the interest as ordered to the claimant by issuing A/c payee cheques in the manner herein below within one month from the date of delivery of judgment as follows:-

1. In the name of Gobinda Prasad Musib (husband of the deceased Rekha Musib) amounting to Rs. 3,50,000/ (Rupees Three Lac Fifty Thousand only) along with interest as ordered;

2. In the name of Joyita Musib (married daughter of the deceased Rekha Musib) amounting to Rs. 2,00,000/- (Rupees Two Lac only) along with interest as ordered.

The case record be consigned to the Record Room. The petitioners are directed to furnish their photographs before receiving the cheque,

Let a copy of this Judgment be supplied to the Ld. Counsel for the petitioners for Information free of costs

Let a copy of this Judgment be supplied to the learned Counsel appearing on behalf of the Opposite Party No. 2, (Bajaj Allianz General Insurance Co. Ltd.), to meet the direction of this Tribunal.

Given under my hand and seal of this Tribunal on this the 20th day of March, 2025.”

Learned advocate for the appellant/insurance

company submits that under the new amended law being Section 164 of the Motor Vehicles Act empowers the Tribunal to pay Rs.5,00,000/- fixed sum in all cases instituted under Section 163A of the Motor Vehicles Act 1988. However, in the instant case, the Learned Trial Court has awarded compensation of Rs.5,50,000/-.

Upon hearing the learned advocates and considering the facts of the case and the relevant provision of law, this Court is of the view that the order passed by the Learned Tribunal should be modified and the compensation amount awarded should be brought down Rs.5,00,000/-. Hence, this appeal stands disposed of. The judgment and award dated 20.05.2025 passed by the Learned Additional District Judge, Fast Track, Durgapur, District-Paschim Bardhaman stands modified to the extent that the appellant/ Bajaj Allianz General Insurance Company Limited shall pay the respondent Nos. 1 and 2 Rs. 2,50,000/- each along with the interest @ 6% p.a. from the date of filing of the claim case till today. Such payment shall be made by depositing the same to the Learned Trial Court within eight weeks from the date of communication of this order.

Upon depositing of the compensation amount the appellant/ Bajaj Allianz General Insurance Company Limited will be entitled to withdraw the

statutory amount of Rs.25,000/- along with accrued interest, if any, from the High Court, Calcutta upon compliance of necessary formalities.

The respondent nos. 1 and 2 shall also withdraw the amount from the Learned Trial Court upon compliance of necessary formalities.

With the aforesaid observation, the appeal and connected application stand disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Biswaroop Chowdhury, J.)