

Item No. 55

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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 9 of 2026
With
IA NO: CAN 2 of 2025

Sharmila Kanjilal & Anr.
Vs
Ms Sumana Banerjee & Anr.

Mr. Nilanjan Adhikari,
Mr. Manas Dutta Chowdhury,
Ms. Oindrila Sinha.

... for the appellants.

Mr. Sanjay Paul.

... for the respondent/insurance company.

Learned advocates for the parties are present.

This appeal is taken up for hearing by consent of
the learned advocates.

This appeal is directed against the order dated
17.03.2025 passed Learned Judge, Bench-IX, City
Civil Court, Calcutta in MACC No. 130 of 2016.
Learned Judge dismissed the case of the
appellants/claimants for not paying the court fees. By
the order dated 17.03.2025, the Learned Judge
observed as follows:

“The petitioners have not filed the claim case as
indigent persons. The petitioners also have not
availed free legal aid. No document about income of
the petitioners is submitted. On this day also court

fees are not paid. It appears from the record that the instant claim petition was filed with leave under Rule 331 (2) of the West Bengal Motor Vehicles Rules. On the previous date the petitioners did not pay deficit court fees.

In this circumstances, the cause shown being not satisfactory is not accepted. In the result, the claim petition is liable to be rejected.

Hence, it is

Ordered

That the claim petition be and the same is rejected.”

Upon hearing the learned advocates and considering the order passed by the learned Trial Judge, this Court is of the view that the motor vehicle claim legislation being a beneficial legislation and the claimants/appellants having already obtained leave under Rule 331(2) of the West Bengal Motor Vehicle Rules the claimants/appellants cannot be compelled to pay necessary court fees at this stage. As an award passed by the Court/Tribunal in motor accident claim case cannot be implemented without paying entire court fees on the awarded sum there is no question of directing the claimants/appellants to pay court fees at this stage. In different cases excess court fees are required to be paid in case the compensation awarded is more than the compensation claim. As it not certain what amount of compensation will be awarded

by the Courts or Tribunal and there is provision to obtain leave under Rule 331(2) of the West Bengal Motor Vehicle Rules, the claimants/appellants should be granted opportunity to pursue the claim case till disposal. On the basis of the award necessary compliance with regard to the court fees may be made. Thus, the order dated 17.03.2025 cannot be sustained and the same is set aside.

This appeal **FMA 9 of 2026** stands disposed of. The matter is remitted to the Learned Trial Court to consider, the MAC Case No. 130 of 2016 pending before the Learned Judge, Bench-IX, City Civil Court, Calcutta without insisting payment of courts fees prior to passing of the award.

As this case is of 2016, Learned Trial Judge is requested to dispose of the case within a period of three months from the date of communication of this order upon giving notice to all necessary parties.

All connected applications, if any, stand disposed of.

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

(Biswaroop Chowdhury, J.)