

S/L 80
12.03.2026
Court No.9
Swd

FMA 665 of 2023

**Tajrin Akhtar @ Tajrin Akter & Ors.
Vs.
The National Insurance Co. Ltd.**

*Mr. Jayanta Kr. Mandal,
Mr. Sayantan Rakshit.*

... for the Appellant.

Mrs. Sucharita Paul.

... for the Respondent Company.

1. Both the parties are represented by their learned Advocates.
2. The appellants before this Court were the claimants in case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award dated 30th day of September, 2019 passed by the learned Additional District Judge, FTC – I, Raiganj, Uttar Dinajpur.
3. The case of the claimants before the learned Trial Court may be summed up thus:-
4. On 29.11.2015 at about 10:30 a.m the victim Suraiya Begum was waiting for bus for purpose of going to Kaliyaganj to Raiganj at Ganesh Talkiz More on the kancha portion of left hand side of the road. At that time, the offending vehicle bearing No. WB-60E/2459 was coming from Hemtabad side to Kaliyaganj side with high speed and in negligent manner. Suddenly, the offending vehicle came to the kancha portion of the road

and hit Sufaiya Begum with great force. Consequently, victim sustained severe injury on her person. The local people along with her family members took her to Kaliyaganj Hospital and from there she was referred to Raiganj Sadar Hospital. On the same day, she was taken to Siliguri Greenage Hospital Pvt. Ltd and she was admitted there. During treatment on 30.12.2015 she succumbed to her injuries there. Blaming excessive high speed, rashness and negligence of the driver of the vehicle was the cause of the accident.

5. Pursuant to filing of the case, the notice was issued upon the opposite party vehicle owner and opposite party Insurance Company. Opposite party vehicle owner did not appear to contest the case. However, the opposite party National Insurance Company filed written statement and contested the said case.
6. By judgment and award dated 30th day of September, 2019, the learned Trial Court was pleased to dispose of the claim case by observing and directing as follows:

“That the application registered as MAC Case No.02 of 2017 National is allowed, on contest against the O.P.2 – National Insurance Company Limited and dismissed against the O.P.-1 – the owner of the offending vehicle.

The O.P/Insurance Company is directed to pay a sum within of Rs. 1,52,688/- each to the claimant nos. i to iii within two months of this date along with interest @ 6% per annum from the date of filing the instant application till realization of the award.”

7. The appellant's claimants being aggrieved by the judgment and award passed by the learned Trial Judge has come up with the instant appeal.

The ground on which the judgment of the learned Trial Judge is assailed is that the learned Trial Judge did not consider the monthly income of the victim correctly and have proceeded to ascertain the compensation. Secondly, the deduction for personal expenses ought to have been one-fourth and not one-third. Thirdly, the medical expenses incurred for the treatment of the victim is not awarded by the learned Trial Judge and fourthly, with regard to the interest awarded in case of default and not from the date of filing of the claim case. Although, the judgment of the learned Trial Judge is assailed on four grounds, but the learned Advocate for the appellant has argued on the three grounds, namely, the deduction for personal expenses, non-awarding of expenses incurred for medical

treatment of the victim and thirdly, non-award of interest from the date of filing of the claim case.

8. The learned advocate for the appellant, in support of his arguments, has relied upon the following judicial decisions, namely, i) ***Kriti & Anr. Etc. Vs. Oriental Insurance Company Ltd.*** Reported in **2021 SAR (Civ) 147** ii) unreported decision of the Hon'ble Supreme Court in the case of ***Vimla Devi and Ors. Vs. National Insurance Company Ltd & Anr.*** being ***Civil Appeal No.11042 of 2018 (Arising out of S.L.P (C) No.17321 of 2016)*** iii) ***Laxmikanta Maity Vs. New India Assurance Company Ltd. and Anr. (FMA 463 of 2013)***, (High Court at Calcutta).
9. Learned Advocate appearing for the Respondent No. 1 National Insurance Company Ltd. submits that the dependents of the victim were married son and two married daughters and the husband. Learned advocate submits that the decision of the Hon'ble Supreme Court in the case of ***Kriti & Anr. Etc. (supra)*** is not applicable to the said case.
10. Learned advocate further submits that the decision of this Hon'ble Court in case of ***Laxmikanta Maity (supra)*** is not applicable to the facts of the case and that the said case was with regard to injury.

With regard to the first submission of the appellant regarding deduction of personal expenses, considering the fact that one of the daughters is a married daughter, this Court is of the view that the learned Trial Judge did not commit any error in proceeding with the personal expenses of the victim as one-third and not as one-fourth.

11. With regard to the submission that the expenditure incurred with regard to the treatment is Rs. 4,50,000/- although the bills which were filed before the learned Trial Court were not exhibited, but reasonable compensation should be granted on account of medical expenses.

12. In this regard, it is necessary to consider the decision of the Hon'ble Supreme Court in the case of **Vimla Devi and Ors.** In the case of **Vimla Devi and Ors.** the Hon'ble Supreme Court observed as follows:

"16. At the outset, we may reiterate as has been consistently said by this Court in a series of cases that the Act is a beneficial piece of legislation enacted to give solace to the victims of the motor accident who suffer bodily injury or die untimely. The Act is designed in a manner, which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to

the suits and other proceedings while prosecuting the claim petition filed under the Act for claiming compensation for the loss sustained by them in the accident.”

13. In the case of **Laxmikanta Maity (supra)**, where a learned Coordinate Bench of this Court observed as follows:

“As I have had the opportunity to go through those medical bills and I find that most of the bills were issued from CMC Vellore and the learned Tribunal should have taken care of the situation that whether it was possible to bring the witnesses from CMC Vellore to prove all those bills. That apart, it cannot be overlooked that no treatment was given to the claimant after accident where he sustained severe fracture injuries. It cannot be presumed that the claimant received treatment without any kind of expenditure.”

14. It is not disputed that the victim prior to death was admitted in hospital. Thus, in the event an injured person is admitted to hospital, the incurring of expenditure in the hospital cannot be denied. Considering the decision of the Hon’ble Supreme Court in the case of **Vimla Devi and Ors. (supra)** and the decision of learned Coordinate Bench of this High Court in the case of **Laxmikanta Maity (supra)** and considering the fact that Motor Vehicle Claim Legislation is a

beneficial legislation and in case of proof before the Motor Vehicle Claims Tribunal, the procedure of the Evidence Act is not required in all cases, this Court is of the view that considering the period of treatment in the hospital, it would be just and reasonable to award compensation of Rs. 2 lakhs on account of medical expenses. Further, with regard to the award of compensation on general heads Rs.30,000/- should be granted on account of funeral expenses and loss of estate. Thus, the total compensation which comes by arithmetical calculation is Rs.6,73,064/-. However, this court is of the view that Rs. 7 lakhs is just a reasonable compensation.

15. Thus, hence, this appeal F.M.A. 665 of 2023 stands disposed.

16. The judgment and award passed by learned Additional District Judge, FTC – I, Raiganj, Uttar Dinajpur in M.A.C.C. case No.2 of 2017, stands modified to the extent that the appellant's/claimant's will be entitled to Rs.7 lakhs from the respondent No.1, National Insurance Company Limited along with interest at the rate of 6% per annum from date of filing of the claim case till today.

17. The respondent No.1, National Insurance Company Limited shall deposit the

compensation amount along with interest within 8 weeks from the date of communication of this order.

18. However, as it is submitted that appellants/claimants have already received the compensation amount awarded by the learned Trial Court the balance amount be deposited before the Registrar General, High Court, Calcutta within eight weeks from the date of communication of this order.

19. Urgent certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(BISWAROOP CHOWDHURY, J.)