

Item
No.75

20.03.2026

Ct
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RUP

**IN THE CIRCUIT BENCH CALCUTTA HIGH COURT
AT JALPAIGURI
CIVIL APPELLATE JURISDICTION**

FMAT (MV) 72 of 2025

Sita Mhato & Ors.

Vs

Reliance General Insurance Company Ltd & Anr.

Mr. Gobinda Saha,
Ms. Priyanka Dey,
Mr. Milan Ch. Laskar,
Ms. Srija Bhomik ... for the appellants.

Mr. Partha Bhowmick,
Ms. Satarupa Nayak,

... for the respondent/insurance company.

Learned advocates for the parties are present. Heard learned advocates for the parties.

The appellants before this Court were the claimants in a claim case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award dated 17th day of April, 2025 passed by the Learned Additional District Judge, Fast Track Court, Siliguri in M.A.C. Case No. 46 of 2018.

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

On 13-08-2018 the victim was

coming to his home after closing his fast food stall along with his fast food vehicle (Thelagari). When he reached Haldibari More at about 7:00 to 7:30 p.m. at that time offending Aactiva Scooty being No.WB-74TC-928 coming from Siliguri going towards Naxalbari at high speed driven rash and negligently hit the victim along with his fast food vehicle (Thelagari). As a result of which victim fell down on the road and sustained injuries. Immediately he was shifted to Naxalbari Hospital and thereafter North Bengal Medical College & Hospital, where he was declared dead for the said injuries. The accident took place due to rash and negligent driving of the Offending Scooty bearing No.WB-74TC-928.

The claimants have suffered much shock, pain and loss for the sad death of their husband, father and son respectively. The victim was the only earning member of his family and the claimants were entirely dependant upon the income the victim.

Pursuant to filing of this case notice was issued upon the opposite parties. Opposite party no.1/vehicle owner did not

contest this case. However, opposite party no.2/ Reliance General Insurance Company Ltd. contested the case by filing written statement. Issues were framed and evidence was adduced.

Upon considering the evidence and upon hearing the learned advocates the Learned Trial Court was pleased to dispose of the claim case by observing and directing as follows:

“Hence, it is,

Ordered.

That the claim application U/s 166 of M.V. Act dated 24/08/2018 is allowed exparte against the opposite party No.1 and contested against opposite party No. 2.

The claimants are hereby entitled to get compensation to the tune of Rs. 14,14,944/-. (Rupees Forteen lacs Forteen thousand Nine hundred and Forty Four) only from O.P. No.2 and are also entitled to get 6% interest over the said amount from the date of the filing of the case till realization of the compensation amount.

The O.P. No. 2 is hereby directed to pay the compensation amount to the claimants within one month from the date of order failing which

the claimants shall be entitled to put the order in execution.”

The appellants/claimants being aggrieved by the judgment and award passed by the Learned Trial Judge has come up with the instant appeal.

Heard learned advocates for the appellants and learned advocates for the respondent No.1. Perused the materials on record.

Learned advocate for the appellants submits that the Learned Trial Judge erred in not awarding any future prospect to the claimants. Learned advocate further submits general damages awarded is only Rs.60,000/- and the same should be enhanced. Learned advocate also submits that the compensation awarded by the Learned Trial Court should be enhanced.

Learned advocate appearing for the respondent No.1/Reliance General Insurance Company Ltd. submits the claimants could not prove the occupation and income of the victim, but the Learned Trial Judge took into consideration of Rs.9409/- instead of Rs.6000/-. Considering the notional income taken for consideration of

compensation future prospect need not be granted.

Upon hearing learned advocate and considering the facts of the case, this court is of the view that evidence was adduced by the claimants with regard to the occupation of the victim. Although no documents was furnished with regard to the occupation of the victim but it is specifically stated the nature of the occupation in which the victim was engaged. From the cross-examination also nothing has come out which will make the case of the claimants unbelievable with regard to the occupation of the victim. As the income was not proved by the claimants, the Learned Trial Judge proceeded on the basis of income of Rs.9409/- per month. Learned Trial Judge has relied upon the government circular and considered the income as Ra.9409/- per month. However, Learned Trial Judge did not take into consideration the future prospect which is to be taken into consideration as observed by the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi reported in AIR 2017 SC 5157. Thus, the future prospect is to be taken into

consideration in arriving at the compensation. Thus, in the event the annual income is assessed at Rs.9409/- per month and future prospect of 40% is added, the total income comes to Rs.1,58,071/-. 1/4 should be deducted on account of personal expenses and the net income comes to Rs.1,18,553/-. By applying the multiplier 16 the total dependency loss comes to Rs.18,96,848/-. The general damages on account filial consortium of Rs,40,000/- each for the mother, father and wife comes Rs.1,20,000/- and Rs.30,000/- on account of loss of estate and funeral expenses.

Thus, the general damages comes to Rs. 1,50,000/-. Thus, the total compensation comes to Rs. 20,46,000/- by arithmetic calculation.

However, this Court is of the view that Rs.19,50,000/- is just and reasonable compensation.

Thus, this appeal being **FMAT (MV) 72 of 2025** stands disposed of.

The judgment and order dated 17th day of April, 2025 passed by the Learned Additional District Judge, Fast Track Court, Siliguri in M.A.C. Case No. 46 of 2018 stands modified

to the extent that the appellant shall be entitled to compensation of Rs.19,50,000/- from respondent/Reliance General Insurance Company Limited. The respondent no.1/Reliance General Insurance Company Limited shall deposit Rs.19,50,000/- along with interest @6% per annum from date of filing of the claim case till today. Such deposit shall be made before the Registrar Circuit Bench, Jalpaiguri, High Court Calcutta within eight weeks from the date of communication of this order.

It is, however, made clear that in the event the compensation amount as awarded by the Learned Trial Court is already paid the balance of compensation shall be deposited within eight weeks.

The claimants/appellants will be entitled to withdraw the compensation amount upon compliance with all the necessary formalities.

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

(Biswaroop Chowdhury J.)

