IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 1056 of 2019

Ajit Das & Ors.

VERSUS

The United India Insurance Company Limited & Anr.

For the appellants/claimants:	Mr. Jayanta Banerjee, Adv. Mrs. Ruxmini Basu Roy, Adv.
For the respondent/Insurance Co.:	Mr. Rajesh Singh, Adv. Mrs. Sucharita Paul, Adv.

Last Heard on: September 24, 2026

Judgment on: October 01, 2026

Biswaroop Chowdhury, J:

The appellants before this Court were claimants in a case under Section 166 of the Motor Vehicles Act 1988 and are aggrieved by the Judgment and Award dated 15-11-2016 passed by Learned Additional District Judge Katwa in MAC Case No. 150 of 2005.

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

Due to damage and unparallel road and due to negligence driving of the vehicle No-WB-23A/5601 the accident took place. As a result said Saranan @ Sujanan Das who was driving the truck no. WGQ-1333 died. Said deceased was the permanent driver of the vehicle WGQ-1333. The legal heirs of said deceased filed another case being MACT-48/01. Due to mistake the said case was withdrawn.

Pursuant to filing of the case notice was issued upon the opposite parties. Opposite Party Insurance Company contested the case by filing written statement.

Learned Trial Judge upon considering the evidence adduced and upon hearing the Learned Advocates was pleased to dismiss the claim case, by judgment and Award dated 30-04-2008.

The appellants claimants being aggrieved by the Judgment and Award passed by the Learned Trial Judge preferred an appeal being FMA-No-62 of 2009.

By Judgment and Order dated August 5, 2015, the Hon'ble Division Bench was pleased to allow the appeal FMA-62 of 2009 set aside the order passed by Trial Court and remit the matter to Trial Court for reconsideration.

The Learned Trial Court by Judgment and Award dated 15th November 2016 was pleased to reconsider the case and dismiss the same once again by observing as follows:-

'This Tribunal has no other alternative but to hold that the accident has not been proved at all in this case. The victim might have received injuries and he might have succumbed to his injuries but the accident has not been proved properly with cogent and sufficient evidence so far there is no satisfactory evidence or clear evidence of accident showing involvement of the alleged another vehicle No. WB-23A/5601 so this Tribunal cannot hold that any such accident took place as alleged by the petitioners. If the accident is not proved then the entire case of the petitioners should be disbelieved.'

The claimants appellants being aggrieved by the Judgment and Award dated 15th November 2016 have come up with the instant appeal.

Heard Learned Advocate for the appellants/claimants and Learned Advocate for the respondent/insurance Company. Perused the evidence adduced and materials on record.

Learned Advocate for the appellants submits that the Learned Trial Judge erred in holding that no evidence was adduced with regard to accident and the claimants could not prove the accident. Learned Advocate further submits that FIR and Post Mortem Report ought to have been taken into consideration by the Learned Trial Judge. Learned Advocate also submits that the Judgment and Award passed by the Learned Trial Court should be set aside.

Learned Advocate for the respondent/Insurance Company submits that the claimants could not prove the accident thus the Judgment and Award should not be interfered with.

At the outset it will appear from the issues framed that issue no-2 was as follows:-

'Was the vehicle No. WGQ 1333 in the use and caused the accident resulting its death of the victim Saranan @ Sajanan Das?'

As the claim under Section 163A of the Motor Vehicles Act 1988 is based on the principle of No fault liability the proof of accident due to use of vehicle No. WGQ-1333 is sufficient for awarding compensation. Learned Trial Judge although in his judgment and order held that there is no satisfactory evidence or clear evidence of accident showing involvement of alleged another vehicle No-WB-23A/5601 but did not address himself specifically on the point as to whether it is proved that accident took place due to use of vehicle No. WGQ-1333.

Upon perusal of the written statement it appears that Insurance Company has not disputed that the victim was driver of vehicle WGQ-1333. It is also contended that the vehicle was driven with care and accident did not take place.

Now with regard to the proof of accident taking place apart from FIR the claimants have filed Report of Police Authority submitted u/S-173 CrPC. As per

the said report on receipt of FIR the Police Authority proceeded to the place of occurrence and seized the Truck. WGQ-1333 and some blood staint road pitch. It is further stated that the injured Truck driver named Sadananda Das expired at Berhampore Hospital. Now upon perusal of the post Mortem Report it will appear that death took place due to injuries caused by Road Traffic Accident.

Thus the FIR, Report of Police Authority and Post Mortem report corroborates the case of the claimants that accident took place due to use of vehicle no-WGQ-1333 causing death of the victim.

Thus the claimants are entitled to compensation. Although accident took place in the year 2001 but Motor Vehicles Claim Legislation being beneficial legislation the compensation of Rs. 5 lakh should be paid in accordance with Section 164 of the Motor Vehicles Act 1988.

Hence this Appeal FMA-1056 of 2019 stands allowed. The Judgment and Award dated 15-11-2016 passed by Learned Additional District Judge Katwa in MAC Case No. 150 of 2005 is set aside. The appellants/claimants are entitled to compensation of Rs. 5 lakh from Respondent/Insurance Company alongwith interest @6% p.a. from date of filing claim case till today. The respondent United India Insurance Company Ltd. shall deposit before Registrar General High Court at Calcutta Rs. 5 lakh alongwith interest @6% per annum. Such deposit shall be made within 8 weeks from date of communication of this Order.

The Claimants/Appellants are permitted to withdraw the compensation upon compliance of necessary formalities. Deficit Court fees be paid within 4 weeks.

TCR be returned by Special Messenger Cost to be deposited by claimants/appellants within 10 days.

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.)