IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 1783 of 2025

With

IA NO: CAN/2/2025, CAN/3/2026

National Insurance Company Ltd.

VERSUS

Sibabrata Jana & Anr.

For the Appellant: Mr. Rajesh Singh, Adv.

For the Respondents: Mr. Amit Ranjan Roy, Adv.

Last Heard on: September 28, 2026

Judgment on: October 06, 2026

Biswaroop Chowdhury, J:

The appellant before the Court was an opposite party in a case under Section 166 of the Motor Vehicles Act 1988 and is aggrieved by the Judgment and Award dated 25th April 2025 passed by Learned Additional District Judge Fast Track IIIrd Court Howrah in MAC Case No. 138 of 2020.

The case of the claimant before the Learned Trial Judge may be summed up thus;

On 13-12-2019 at about 11.30 hours over Amta Ranihati Road near Gujarpur Choto Poll at Majar under Amta P.S. District-Howrah the victim namely Sibabrata Jana was standing extreme left side of Kanch portion of the Road. At the material time a bus bearing Registration WB-13/0832 (Amta Airport Route) which was proceeding towards Amta side at a terrific high speed recklessly, endangering human life and safety of others suddenly knocked down the victim and violating traffic road rules. As a result the victim sustained severe injury all over his body especially left leg grievous injury which caused his permanent disablement.

Rash and negligent driving on the part of the driver of the said vehicle bearing No-WB-13/0832 was the sole cause of the pathetic accident which could easily be avoided if the driver would have taken proper care and reasonable attention at the material time being devoid of ordinary sense of prudent driving.

Pursuant to the filing of the case notice was issued upon the opposite parties. Opposite party vehicle owner did not contest the case. Opposite Party Insurance Company contested the case by filing written statement. ISSUES were framed and evidence was adduced. Learned Trial Judge upon considering the evidence adduced and upon hearing the Learned Advocates was pleased to dispose of the claim case by observing and directing as follows:-

'Hence it is ORDERED that the instant MAC Case No: 138 of 2020 be and the same is allowed on contest without costs against the insurance Company being National Insurance Co. Ltd. (OP. No. 2).

The claimant/Sibabrata Jana is entitled to compensation of Rs. 56,38,103/- (Fifty six lakhs thirty eight thousand one hundred three) only in total.

The National Insurance Co. Ltd. (OP No-2) is directed to pay to the claimant Sibabrata Jana being the victim/injured Rs. 56,38,103/- (Fifty six lacs thirty eight thousand one hundred three) only by account payee cheque together with an interest @6% p.a. calculated from the date of filing of the present application till this date of order within 60 days from the order.

This order will take effect only on depositing the ad-valorem Court fee as would be assessed.

The OP. insurance company to draw a/c payee cheque in favour of the above named claimant of amount mentioned above, within statutory period after depositing court fee by the claimants as mentioned above.'

The Appellant National Insurance Company Limited being aggrieved by the Judgment and Award passed by learned Trial Judge has come up with the instant appeal.

Heard Learned Advocate for the appellant and Learned Advocate for the respondent. Perused the evidence adduced and materials on record.

Learned Advocate for the appellant submits that the case of the claimant is doubtful as the claimant stated that he was standing beside unmettalled portion of the extreme left side of the road and P.W. 4 in his cross examination stated that Sibabrata babu was sitting on the seat of driver in his car. Learned Advocate further submits that there is inconsistency between statement made by P.W. 4 in examination in chief and that made in cross-examination. Learned Advocate also submits that future prospect ought to have been 25% and Learned Trial Judge erred in considering future prospect as 30% thus the compensation awarded is excessive.

Learned Advocate for the opposite party disputes the submission made by Learned Advocate for the appellant and submits that compensation awarded should not be interfered with.

Now upon comparative reading of evidence of P.W. 1 and P.W.4 it will appear that Sibabrata Jana the claimant herein was injured in the accident along with others. Although P.W.1 and P.W.4 in their examination in chief stated that claimant was standing and in cross-examination it is stated that car was standing at the side of road and P.W.4 was with the claimant thus presence of Sibabrata Jana is there. Thus the evidence of P.W.4 will go to show that he was with Sibabrata Jana and Sibabrata Jana was injured in accident. The police report and medical document also supports the case of the claimant being injured in Road Traffic Accident.

Although in some medical document it appears that the claimant was standing and in one document it states claimant was driving car but the fact the claimant being injured in road traffic accident caused by vehicle no. WB-13/0832 is established. As Motor accident claim legislation is a beneficial legislation, where it is not necessary to establish the case beyond reasonable doubt but on the touchstone of preponderance of probability Courts cannot act like an umpire, but has to enquire and ascertain the truth. Moreover the Insurance Claim Cases are not purely an adversarial litigation and enquires are conducted by Insurance Companies to ensure that genuine claims are honoured and frivolous claims are dismissed. Where an Insurance Company on enquiry ascertains that inquiry or death took place due to accident by rash driving then inspite of their being inconsistency in the case filed by victim or his family the Insurance Company should settle the claim before the matter being taken to Court, or may settle during pendency of case. National Insurance Company Limited being a Government Company and 'State' within the meaning of Article 12 of the Constitution of India has the duty to see that the object of the claim legislation is fulfilled in its letter and spirit.

Now with regard to the submission of the Learned Advocate for the appellant that future prospect ought to be 25% and not 30% this Court is of the view that the said submission has same substance. Thus the future prospect should be 25%. In the event future prospect is 25% the total compensation will be as follows: -

Compensation for medical expenses- Rs. 1,21,500/-

Compensation for loss of earning – 27,557X12X14X90%-Rs. 41,66,618/-

Compensation for pain and sufferings-Rs. 100,000/-

Future Prospect 41,66,618X25/100=10,41,654/-

Total Awardable compensation comes to Rs. 54,29,772/- by arithmetical calculation. However this Court is of the view that compensation of Rs. 54,00,000/- (Rupees fifty four lacs is just and reasonable.)

Hence this FMA-1783 of 2025 stands disposed. The Judgment and Award dated 25th April 2025 passed by Learned Additional District Judge Fast Track Court III. Howrah in MAC Case No. 138 of 2020 stands modified to the extent that the claimant/respondent is entitled to Rs. 54 lac from the Appellant Insurance Company. The Appellant Insurance Company shall deposit Rs. 54 lac alongwith interest @6% p.a. from date of filing claim case till today. Such deposit shall be made before Registrar General High Court Calcutta within 8 weeks from the date of communication of this order. In the event compensation awarded by trial court is already deposited no further deposit be made. The claimant/respondent will be entitled to withdraw the compensation upon compliance of necessary formalities. Balance amount along with accrued interest if any be returned to the appellant.

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.)