

**MOTOR ACCIDENT CLAIM TRIBUNAL JUDGE,
ADDITIONAL DISTRICT AND SESSIONS JUDGE, FAST TRACK COURT,
RAMPURHAT, BIRBHUM**

Present : Sandip Kumar Kundu (WB 00988)
Judge, Motor Accident Claim Tribunal,
Additional District and Sessions Judge,
Fast Track Court, Rampurhat, Birbhum.

Dated the 11th day of March, 2026



**M.A.C. Case No. 20 of 2020
CIS Registration No. 20 of 2020
CNR No. WBBB05-000371-2020**

AMAR BAGDI AND OTHERS

..... Claimants

-Versus -

**1. BIPUL CHAKRABORTY and
2. BRANCH MANAGER, ICICI LOMBARD
GENERAL INSURANCE CO. LTD.**

..... Opposite Parties

34
11.03.2026

Today is fixed for passing order.

Parties file hazira.

The case record is taken up for passing order.

This is a compensation claim under Section 163A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the M.V. Act' in short) brought at the instance of the claimants, being the wife and children and legal heirs of the deceased namely, Anil Bagdi, arising out of the accidental death of the victim allegedly involving a motor vehicle bearing registration No. WB 46B-6611 (Motorcycle).

The brief facts of the case of the claimants are that on 13.12.2017 at about 2 a.m., when Anil Bagdi was proceeding through Mollarpur Sainthia Road, a motorcycle bearing registration No. WB 46B-6611 dashed him due to rash and

negligent driving by its rider, Biswanath Bagdi. As a result, he sustained injuries and died on 15.12.2017 at SSKM Hospital, Kolkata. In respect of the said accident, a case was filed being Mollarpur P.S. Case No. 206 of 2019 dated 03.12.2019 under Sections 279/304A of the Indian Penal Code, which was registered as G.R. Case No. 1476 of 2019. It is stated by the claimants that on the date of the accident the deceased, Anil Bagdi, was aged about 38 years. He was a vehicle mechanic and his monthly income was Rs. 5,000/-. The claimants, being the legal heirs of the said deceased, have filed this application praying for compensation of Rs. 5,00,000/- from the insurance company as well as from the owner of the offending vehicle.

O.P. No. 1 being the owner of the offending vehicle, appeared and filed a written statement. According to this O.P., the claim petition is not maintainable in its present form. At the time of the accident, the offending vehicle was insured with O.P. No. 2, therefore, the entire liability will fall upon the said insurance company.

O.P. No. 2 being the insurer of the offending vehicle, has also participated in the proceeding and contested the claim case by filing a written statement. This O.P. has categorically denied the contentions of the claim application. It is specifically stated by the O.P. insurance company that no accident took place on the alleged date, time and place due to rash and negligent driving by the driver of the motorcycle bearing registration No. WB46B-6611, since the said vehicle was not plying on the said road on the relevant date and time. Further, that the FIR was lodge on 03.12.19, i.e., after about 720 days of the alleged accident. The statements of the claimants are concocted and manufactured. Since the actual offending vehicle fled away after the accident, the claimants, in connivances with Mollarpur P.S. and the owner, have made an ingenuine claim and somehow managed to implicate the said vehicle and filed this false case against the answering O.P. It is also stated that the driver of the said vehicle had no proper driving licence on 13.12.2017. Thus, the O.P. insurance company has no liability to pay any compensation. Accordingly, O.P. No. 2 has prayed for rejection of the application of the claimants with costs.

POINTS FOR RUMINATION

Upon going through the rival versions, the following issues are reduced for consideration and determination:

1. Is the claim case maintainable in its present form and in law ?
2. Did Anil Bagdi die in a road traffic accident ?

3. Was the vehicle bearing registration No. WB 46B 6611 involved in the said accident ?

4. Was the said vehicle under the coverage of Insurance policy issued by the ICICI Lombard General Insurance Company Limited at the time of accident ?

5. Are the claimants entitled to get the relief, as claimed ?

6. To what other relief(s) the claimants are entitled ?

EVIDENCE ON RECORD

During trial, claimant No. 2 Anjali Bagdi deposed in this case as PW 1 and one Ajay Bagdi, claiming to be an eye witness to the accident, deposed as PW 2. The following documents were produced and exhibited on behalf of the claimants :

Exhibits	Particulars of Document
1 series	Certified copies of FIR, written complaint, two seizure lists and charge-sheet of Mollarpur P.S. Case No. 206/2019 dated 03.12.2019, under sections 279/304A of IPC
2 (with objection)	Xerox copy of P.M. report of the deceased Anil Bagdi
3	Insurance Policy certificate
4	Death certificate of the deceased Anil Bagdi
5 series	Aadhar cards of the deceased Anil Bagdi and the claimants

On the other hand, the legal manager of O.P. No. 2 deposed as O.P.W 1. O.P. No. 1 was examined as O.P.W 2. The rider of the offending vehicle, Biswanath Bagdi, adduced evidence as O.P.W 3 and the Court Inspector of Rampurhat Sub-Divisional Court came to depose as document witness from the side of O.P. No. 2. The documents exhibited from the side of O.P. No. 2 are as follows :

Exhibits	Particulars of Document
A	Statement of O.P. No. 1 addressed to the manager of O.P. No. 2
B	Statement of O.P.W 3 addressed to the manager of O.P. No. 2
C	Certified copy of injury report issued by MO, Mallarpur BPHC on 13.12.2017
D	Certified copy of injury report issued by MO, SSKM Hospital on 14.12.2017.
E	Certified copy of inquest report of Anil Bagdi dated 16.12.2017

DECISION WITH REASONS

Now, for the sake of brevity in discussion and deliberation, and to avoid needless repetition, all the points having close nexus with each other are taken up together for the final disposal of the case in its true perspective. Thus, a careful scrutiny of the oral as well as documentary evidence adduced by both sides becomes inevitable for proper appreciation of the case.

The claimants, being the wife and children of the deceased, filed this case praying for compensation as the deceased, Anil Bagdi, met with an accident involving a motorcycle bearing registration No. WB 46B 6611, and the said vehicle was insured with O.P. No. 2. As per the contention of the claimants, the accident took place on 13.12.2017 and in respect of the said accident, a case had been registered as Mollarpur P.S. Case No. 206 of 2019 dated 03.12.2019, under Sections 279/304A of the Indian Penal Code. Further, the record reveals that the instant case was filed on 24.08.2020.

During argument, the Ld. Counsel for O.P. No. 2 strongly agitated the inordinate delay in registering the said criminal case and the institution of the present case before the Court. It was argued that the case of the claimants is not genuine and is liable to be dismissed. Countering such argument, the Ld. Counsel for the claimants submitted that mere delay in lodging the FIR cannot be a ground for defeating a claim case. In this regard, reliance was placed on the decision reported in **National Insurance Co. Ltd. v. Smt. Arunabati and Others, 2023 (1) TAC 624 (MP)**.

The statute does not provide any provision for filing a case under Section 163A of the M.V. Act stipulating any period of limitation. Therefore, delay in filing this case does not debar the claimants from seeking relief under the said provision of law. Nothing is also apparent in this case to show that the claimants have no cause of action to file the case or that the case is bad for mis-joinder and non-joinder of necessary parties. Having regard to the case made out by the claimants, coupled with the relief sought for, this Tribunal does not have any hesitation in holding that the instant case is well maintainable in its present form and in law.

It is the case of the claimants that the deceased, Anil Bagdi, met with an accident on 13.12.2017 at about 2 a.m. involving the vehicle bearing registration

No. WB 46B-6611 (motorcycle) and succumbed to his injuries. PW 1 Anjali Bagdi, being the wife of the deceased, deposed about the accident by narrating the facts of this case in perfect harmony. According to PW 1, the accident occurred due to the rash and negligent driving of the driver of the offending vehicle.

PW 2 being an eye witness of this case, also narrated the incident in his examination-in-chief. This witness clearly stated, "*I saw the incident in my own eyes.*"

At the time of adducing evidence, PW 1 filed certified copies of the FIR, written complaint, two seizure lists and charge-sheet of Mollarpur P.S. Case No. 206 of 2019 dated 03.12.2019 under Sections 279/304A of the Indian Penal Code, which have been marked as Exbt. 1 series. These documents show that on 13.12.2017 at about 2 a.m. the accident occurred on Mollarpur Sainthia Road, and a case vide Mollarpur P.S. Case No. 206 of 2019 dated 03.12.2019 under Sections 279/304A of the Indian Penal Code was initiated. The charge sheet reflects that after completion of the investigation, the charge sheet was submitted against the accused person, namely Biswanath Bagdi, being the rider of the offending vehicle bearing registration No. WB 46B-6611 (motorcycle), under Sections 279/304A of the Indian Penal Code. The death certificate of Anil Bagdi (Exbt. 4) confirms his death. Further, from the photocopy of the post-mortem report of the deceased Anil Bagdi [Exbt. 2 (with objection)], it transpires that the death of Anil Bagdi was caused due to the injuries sustained by him, which were ante-mortem in nature.

On the other hand, the defence case has been built on the point that the deceased was intoxicated while riding the motorcycle in violation of traffic rules, and due to his own negligence, his motorcycle skidded and he fell down, sustained injuries and subsequently expired. Thus, the insurance company has no liability to pay compensation for the said accident in question. During argument, the Ld. Counsel for the O.P. insurance company emphasized on Exbt. A and B, which are the letters written by the rider and owner of the offending motorcycle addressing the manager of the O.P. insurance company.

I have carefully perused the said documents. It appears that both OPW 2 and OPW 3, in the same tune, wrote letters to the authority of the O.P. insurance company making the deceased liable for his ill fate for which he died. Practically, these witnesses tried to shift their liability and/or alleged illegality upon the victim deceased, who is no more in the world and cannot come to the Court to make any statement in his support. The charge sheet submitted in connection with the said accident nullifies and/or discards the weight of Exbt. A and Exbt. B.

Be that as it may, both PW 1 and PW 2 have been subjected to cross-examination, but nothing has come out which shakes their credibility. During argument, the Ld. Counsel for the insurance company drew attention to the deposition of PW 2 where he stated, “*I started from my house at about 10.00 p.m. and after walking for about 30 kms., I reached at the place of occurrence at about 1.30 p.m.*” Accordingly, it was submitted that the evidence of the said witness is not trustworthy and cannot be relied on. It was further argued that the accident actually took place at midnight and, therefore, there was no eye witness present at the place of occurrence at that time of the accident.

If the entire evidence of PW 2 is considered, i.e., both his examination-in-chief and cross-examination, I find no earthly reason to discard his evidence in entirety. Definitely there is some exaggeration in the statement of the witness, but even in his cross-examination he stated that he saw an accident between two motorcycles from a distance of 60/70 cubits and one person fell from the motorcycle.

Further, relying on Exbt. D, the Ld. Counsel for O.P. No. 2 tried to impress upon this Tribunal that at the relevant time the victim was intoxicated and as such, he was responsible for the accident and that the O.P. insurance company has nothing to do with it. I am of the considered view that merely on the basis of Exbt. D, it cannot be safely concluded that the victim deceased was indeed intoxicated at the relevant time. No authenticated medical evidence has been placed on record to substantiate such contention by the opposition side. O.P. No. 2 did not call the doctor who prepared and issued Exbt. D. The incident occurred on 13.12.2017 at about 2 a.m., whereas Exbt. D was issued on 14.12.2017 at about 2.10 a.m. The medical officer did not opine, upon examination of the patient, that on 13.12.2017 at about 2 a.m. the patient was drunk.

Taking into consideration the facts before me and in the light of the evidence on record, I have no hesitation in holding that the deceased died due to a road traffic accident involving the offending vehicle. Therefore, based upon the nature of this proceeding and upon evaluation of all these documents, *prima facie*, propel this Tribunal to deduce the following two things :

(i) The death of Anil Bagdi on 15.12.2017 was caused due to a road traffic accident which took place on 13.12.2017 and

(ii) The motorcycle bearing registration No. WB 46B-6611 was directly involved in the incident.

Now the question is whether the said vehicle was insured with O.P. No. 2. At the time of evidence, PW 1 filed photocopies of the insurance policy certificate (marked as Exbt. 3) and the certificate of registration (though not exhibited) of the offending vehicle bearing registration No. WB 46B 6611, having chassis No. MBLJA05EMG9F43990 and engine No. JA05ECG9F38889. On scrutinization of these documents, it reflects that the vehicle in question was insured with O.P. No. 2 and the insurance policy was valid from 10.01.2017 to midnight of 09.01.2018. Therefore, it is clear that on the date of the accident, i.e., on 13.12.2017, the offending vehicle was under valid insurance coverage being insured with O.P. No. 2.

In this case, O.P. No. 2, *inter alia*, took the plea that the offending vehicle had been driven by a driver without a valid and effective driving licence at the time of the accident. According to the insurance company, there was a breach of the condition of the insurance policy and, therefore, it is not liable to pay any compensation.

On this score, it is necessary to mention that claimant No. 2, at the time of adducing evidence, did not produce the driving licence of the rider, Biswanath Bagdi, who was riding the offending vehicle bearing registration No. WB 46B 6611 on the fateful night, as per the charge sheet. On scanning the seizure list dated 22.12.2019 (Exbt. 1/3), it transpires that during the investigation, the police seized one driving licence in the name of Biswanath Bagdi, s/o Mongol Bagdi of village Malanchi, Police Station Mayureswar, Birbhum, vide D/L No. WB-45201-80008262, which remained valid till 11.01.2024. Therefore, in the absence of any contrary evidence, it can safely be presumed that the said rider of the offending motorcycle possessed a valid driving licence on the date of accident, i.e., on 13.12.2017. Thus, the plea of O.P. No. 2 regarding non-holding of a valid licence by the rider of the offending vehicle on the date of accident does not sustain.

PW-1, at the time of adducing evidence, proved the identity documents of the claimants, which have been marked as Exbt. 5 series. On examining these documents, it can safely be inferred that the claimants are the legal heirs of the victim deceased, Anil Bagdi.

In view of the above discussion and the conclusions arrived by the Tribunal in deciding the above issues, it becomes certain that the claimants are entitled to get compensation and that O.P. No. 2 is liable to pay the compensation to the claimants for the death of Anil Bagdi in this case. Thus, the issues under consideration are answered accordingly and resolved in favour of the claimants.

QUANTIFICATION OF THE FINAL CLAIM AMOUNT

Now the time has come to ascertain the quantum of compensation and also to determine whether the claimants are also entitled to get interest and costs along with the compensation amount.

To begin with, let us have a look at the contention of Section 163A of the M.V. Act, 1988. One of the most noticeable features of Section 163A of the said Act is that it provides for claim of compensation in a case involving no fault liability. Section 163A of the M.V. Act provides **special provisions as to payment of compensation on a structured formula basis**, and the section runs as follows :

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation - For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen's Compensation Act, 1923.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

It is noteworthy to mention that the Notification dated 22.05.2018 issued by the Ministry of Road Transport and Highways, reveals that a new “Second Schedule” has been substituted in place of the existing “Second Schedule” in exercise of the powers conferred by Sub-Section (3) of Section 163A of the Motor Vehicles Act, 1988. The said Notification was published in the Gazette of India on 22.05.2018, the existing schedule as aforementioned has been substituted which is as follows :

1(a) Fatal Accidents :

Compensation payable in case of Death shall be five lakh rupees;

(b) Accident resulting in permanent disability :

Compensation payable shall be {Rs. 5,00,000/- X percentage disability as per Schedule I of the Employee's Compensation Act, 1923 (8 of 1923)}

Provided that the minimum compensation in case of permanent disability of any kind shall not be less than fifty thousand rupees.

(c) Accident resulting in minor injury :

A fixed compensation of twenty five thousand rupees shall be payable;

2. On and from the date of 1 st day of January, 2019 the amount of compensation specified in the clause (a) to (c) of paragraph (1) shall stand increased by 5 per cent annually.

3. This notification shall come into form on the date of its publication in the official Gazettee.

A bare perusal of the said notification shows that separate lump-sum amounts have been introduced for claims arising out of death and injury, replacing the structured formula which was earlier prevalent. It is thus evident from the new Schedule that Rs. 5,00,000/- is payable under sub-section (1) of Section 163A of the M.V. Act, 1988 and in view of Clause 2 that amount is required to be increased @ 5% annually.

Therefore, armed with the spirit of the present law of the land and after giving serious cogitation over the materials on record, this Tribunal is not hesitant to hold that the claimants are entitled to get Rs. 5,00,000/- plus Rs. 1,75,000/- [In view of paragraph (2) of the said notification, dated 22.05.2018, as above], totalling a sum of Rs. 6,75,000/- as compensation for death of Anil Bagdi in a road traffic accident.

Further, as regards interest, Section 171 of the M.V. Act deals with the award of interest. It reads as follows :

Section 171: Award of interest whether any claim is allowed – Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall be paid at such rate and from such date not earlier than the date of making the claim, as it may specify in this behalf.

In Abati Bezparuah vs. Deputy Director General, Geological Survey of India (2003) 3 SCC 148, His Lordship Hon'ble Mr. S. B. Sinha, referring

to the earlier decision, O.P.ined that the question as to what would be the rate of interest, would depend upon the facts and circumstances of each case and award of interest would normally depend on the bank rate prevailing at that time. His Lordship Hon'ble A. R. Laxaman, J in his concurring O.P.inion stated as follows :

“The rate of interest must be just and reasonable dependent upon the facts and circumstances of each case taking all relevant factors including inflation, change of economy, policy being adopted by Reserve Bank of India from time to time, how long the case is pending, permanent injuries suffered.”

During argument, the Ld. Counsel for O.P. No. 2, submitted that, as per Section 171 of the M.V. Act, awarding interest is nothing but a matter of discretion of the Tribunal. In this case, the insurance company never prayed for adjournment; rather, it is the claimants who took much time to dispose of the case. Therefore, the insurance company may be exonerated from paying any interest, even if any award is passed against it.

On perusal of the order sheets, it transpires that the issues were framed in this case vide order No. 09 dated 07.12.2022 and the date was fixed for evidence on 14.02.2023. On the very first date of evidence of this case, O.P. No. 2 filed an application for adjournment on the ground stated in the petition. Further, the date was fixed for DW on 23.11.2023, but on that date also O.P. No. 2 preferred a time petition and the hearing of the case was adjourned. This O.P. again prayed for time on 07.05.2024, 18.09.2024 and 19.11.2024, which were fixed for evidence of DW. Therefore, the argument of the Ld. Counsel for O.P. No. 2 that the insurance company never prayed for adjournment in this case is utterly untrue.

The incident of this case took place dates back in the year 2017 and the application for compensation was filed on 24.08.2020. Therefore, the claimants will be entitled to get interest from the date of filing of this case. As per the available information in the internet, the prevalent rate of interest of deposit accounts in nationalized banks in the year 2020 was, on an average 5.50% per annum. Therefore, the claimants shall get interest @ 5.50% per annum from 24.08.2020, i.e., from the date of filing of this case till realization of the awarded compensation.

However, considering the facts and circumstances of the case and also in view of the entire discussion made above, this Tribunal is not inclined to award any costs in favour of the claimants.

As a result, the case of the claimants succeeds.

Court Fees paid are found to be insufficient.

Accordingly, it is

ORDERED

that the instant M.A.C. case filed under Section 163A of the Motor Vehicles Act, 1988 is allowed on contest against the O.Ps, but without any order as to the costs.

The claimants do get an award of Rs. 6,75,000/- (Rupees six lakhs and seventy-five thousand) only in total as compensation from O.P. No. 2/ ICICI Lombard General Insurance Co. Ltd.

The amount of compensation, as awarded, shall carry simple interest @ 5.50% per annum from 24.08.2020 till final realization of the entire amount.

The O.P. No. 2/ICICI Lombard General Insurance Co. Ltd. is directed to issue three account payee cheques of Rs. 1,50,000/- (Rupees one lakh and fifty thousand) only each, along with interest as directed, in favour of the claimant Nos. 1, 3 and 4, namely Amar Bagdi, Khusi Bagdi and Dolan Bagdi, and one account payee cheque of Rs. 2,25,000/- (Rupees two lakhs and twenty-five thousand) only along with interest as directed, in favour of claimant No. 2, namely Anjali Bagdi, being the son, two daughters and wife of the deceased victim Anil Bagdi, within 30 (thirty) days from this date.

In the event of default in making such payment within the stipulated time by O.P. No. 2, the claimants shall be at liberty to put this award into execution in accordance with law.

Any compensation already paid to the claimants under Section 140 of the M.V. Act shall be deductible from the award of compensation made herein above.

A copy of the award be given to the parties free of cost.

The case record be consigned to the Record Room.

The claimants are directed to deposit the deficit court fees and furnish their recent passport-size photographs before receiving the cheques.

Dictated & Corrected by me

Sd/-
Judge, MAC Tribunal
Rampurhat, Birbhum.

Sd/-
(Sandip Kr. Kundu)
Judge, Motor Accident Claim Tribunal,
Additional District and Sessions Judge,
Fast Track Court, Rampurhat,
Birbhum.