

IN THE COURT OF
ADDITIONAL DISTRICT & SESSIONS JUDGE,1st COURT
DAKSHIN DINAJPUR AT BALURGHAT

PRESENT : Santosh Kumar Pathak
Addl.District & Sessions Judge-1
Dakshin Dinajpur at Balurghat
JO CODE: WB00-830.

MOTOR ACCIDENT CLAIM CASE NO. 53 OF 2019
Computer Regn. No. 53 of 2019
CNR: WBDD01-000712-2019

Ref :- Tapan P.S. Case No. 124 of 2018 dt.24.05.2018 under sec.279/304(A) of the Indian Penal Code.

CLAIMANTS/PETITIONER	RESPONDENTS
1. Dola Siddhanta Joardar 2. Adrija Joardar 3. Aditya Raj Joardar of Vill:- Kanthalpara near Kabitirtha P.O& P.S.Balurghat District: Dakshin Dinajpur	1. Biplab Das (Owner of vehicle) 2. The Divisional Manager, Oriental Insurance Company Ltd. Malda Division, 9/10 Rabindra Avenue P.O & P.S. Malda : Policy No.313592/31/2017/2087

Advocates appeared : Mr.Chittaranjan Das.....For OP-2/Insurance Coy
Mr.Manotosh Tokdar.....For Claimants/pettioner

ORDER NO. 43
DT. 23. 09. 2025

1. Today is fixed for evidence of O.P.W-2 Samar Ghosh,A.S.I of Police on behalf of Insurance Company. Heard both sides. Perused the materials available on record wherefrom it appears that Samar Kumar Ghosh was endorsed with this case for holding investigation and for which reason for the interest of fair trial his evidence is very much required in this particular case. Ld.Advocate for the Insurance Company submitted that despite several attempts made by him he has failed to make available the said witness before this Tribunal.
2. *The CPC provides the Court with the power to compel witnesses to attend the Court to provide evidence or produce documents. Section 30 of the Code provides the Court certain powers to order discovery and the like upon application by the parties or on its own motion. Clause (b) of Section 30 provides the Court power to issue summons to any person whose attendance is*

required to provide evidence or produce documents. Section 32 of the Code provides the court the power to compel the attendance of any person to whom a summons has been issued under Section 30 with coercive means like issuing a warrant, attachment of property, etc. Order 16 Rule 10 provides a procedure when a witness fails to comply with a summons. It is to be noted that such provisions are not unique to civil procedure but are also found in criminal procedure, in the Nagarik Suraksha Sanhita, 2023. It is clear that Order 16 holds that there is a duty for any person summoned to provide evidence, and when such a duty is evaded, the Court may impose penal consequences under Rule 10 and Section 32 of the Code.

3. Under such circumstances, keeping in mind the legal provision, issue Bailable Warrant of Arrest against the OPW No.2 Samar Kumar Ghosh, A.S.I of Police to be executed through Superintendent of Police, Dakshin Dinajpur at Balurghat. Fix 18.11.2025 for E/R of B.W.A and Evidence.

Let a copy of this order be transmitted to Superintendent of Police, Dakshin Dinajpur along with the concerned B.W.A issued against Samar Kumar Ghosh, A.S.I of Police, for information and necessary action.

Dict.& Corr by

AD& S.J-1

**Addl. District & Sessions Judge-1
Dakshin Dinajpur at Balurghat**