B.F. No.3701.

HEADING OF JUDGEMENT IN ORIGINAL SUIT/CASE.

DISTRICT: PURBA MEDINIPUR
IN THE COURT OF ADDITIONAL DIST. & SESSIONS JUDGE,
F.T.C 2ND COURT, CONTAI.

PRESENT:- Nuruzzaman Ali, Judge,
M. A. C. Tribunal cum Addl. Dist. Judge,
Fast Track, 2nd Court, Contai.

Dated :- Contai, the 31st day of August, 2026.

M.A.C. Case No. 50/2015

CIS No. 50/2015

(CNR : WBEM09-001046-2015)

Under Section 166 of Motor Vehicles Act, 1988.

Sri Abhishek Shyamal

…………..petitioner/claimant.

[-VERSUS-]

1. Sri Ratan Chanda (Registered Owner)...............O.P No.1
2. IFFCO-TOKIO-General Insurance Co. Ltd...…......O.P. No.2.

Sri Subrata Das…………….Advocate for claimant.

Sri Biswanath Mishra...…...Advocate for OP No.2 and having stood for consideration to this day, the court delivered the following judgment:-

JUDGMENT

The claimant, a vibrant and jubilant young man of 24 years 11 months and 7 days has been forced to lead his life in persistent vegetative state due to the accident in question in the fine afternoon of the New Year Day in 2015. The cervical spine of human being consists of vertebrae C1 to C7 and damage to any of this has serious and irreversible consequences. The C4 and C5 vertebrae are two middle bones in the neck part of our spine (the cervical spine). They help to hold up our head and let our neck to bend and twist and protect important nerves that run down from our brain to the whole body. It controls our breathing, arm and shoulder movement and other vital functions. C4 and C5 spinal cord injury leads to paralysis in arms, hands, torso and legs and trouble controlling bladder and bowel movement along with other irreversible bodily malfunctions like ability to speak and breathe.

The claimant had suffered traumatic dislocation of C4-C5 vertebra facet joints in the cervical spine with quadriplegia along with bladder and bowel involvement. Quadriplegia refers to paralysis on both hands and both legs. Bladder and bowel involvement has led to loss of control of the bowel movement and the patient was unable to control or say about discharging stool or urine. The patient was unable to carry out activity of daily living and was unable to move any part of his body without the help of others and he needs the help of physiotherapist on permanent basis. The claimant has no capacity to move by himself and as a result he receives bed-sores on sacral region necessitating nursing assistant on permanent basis. The claimant has the ability to talk but in subdued tone. He attended the court during his examination as PW-1 and he was also present during argument. He attended the court on a wheel chair which was being driven by another person.

This Court is going to dwell upon the claim case U/S 166 of M.V. Act, 1988 of the above mentioned petitioner/claimant who had initially prayed for grant of compensation to the tune of Rs. 800000/- and later it was amended to Rs. 20,00,000/- with cost and interest from the date of application till the date of realization of the amount for himself i.e. the injured victim, namely, Abhishek Shyamal who met with the road accident on 01.01.2015 at about 2.30 P.M. Ld. Advocate for the claimant while on his legs had prayed for an amount of Rs. 56,15,469/-.

<u>The case of the Petitioner/Claimant</u>

Bereft of unnecessary details, the case of the petitioner/claimant is that on 01.01.2015 at about 2.30 P.M the victim was walking through the side of Contai-Digha pitch road near Digha Mohana bye pass More in front of Bivekananda statue. At the same time the offending motor-cycle bearing no. OD-01F-2240 which was proceeding at high speed towards Ramnagar rashly and negligently dashed the victim on his backside. The offending motor cycle had violated the traffic rules. As a result the victim sustained multiple grievous injuries all over his body and the victim became permanently disabled.

Due to rash and negligent driving on the part of the driver of the said motor-cycle the aforesaid accident had occurred.

An FIR was lodged with the officer-in-charge, Digha Mohana Coastal P.S over the above noted accident and it was registered as Digha Mohana Coastal P.S. Case No. 06/2015 dated 10.01.2015, U/Sec. 279/337/338 I.P.C.

Abhishek Shyamal, the injured victim was an able-bodied person and he used to earn Rs.7,000/- per month from his profession as businessman at the time of accident.

Petitioner/claimant i.e. the injured victim had set up this claim against the owner and insurer of the offending vehicle bearing registration No. OD-01F-2240 (Motor-Cycle).

The case of the Opposite Party no.2

The owner, Ratan Chanda and the insurer, the IFFCO-TOKIO General Insurance Company Ltd. were arraigned as opposite parties no.1 and 2 respectively in the instant claim case involving the offending vehicle i.e. Motor-Cycle bearing registration no. OD-01F-2240. The insurer of the said offending vehicle filed written statement and contested the case on merit. On the other hand, the owner of the offending vehicle, Ratan Chanda did not contest the case and the case is being heard ex-parte against him.

The contesting Opposite Party No. 2 being the insurer of the vehicle bearing registration no. OD-01F-2240-(Motor-Cycle) has, by filing written statement, denied all material allegations averred by the claimant/petitioner in the claim petition. It has been specifically contended that the claimant has not complied with the provisions of Sec.64 VB of the Insurance Act, 1938 and as such the claim petition was liable to be rejected. It has been mentioned that the claimant must prove the existence of valid insurance policy, registration documents, fitness certificate and valid and effective driving license to fasten the Insurance Company with liability and in default the OP was not duty bound to pay compensation. It has been also mentioned in the WS that the alleged owner has not complied with the provision of Section 134C of the MV Act and, as such, the OP was not liable to pay compensation.

The OP was also desirous to get leave to give objection u/s 149(2) of the M.V. Act. The OP also prayed before the Court to give a direction to claimant to produce the authenticated copy of the Insurance Policy or certificate and the authenticated copy of the driving license of the driver of the offending vehicle. The O.P has further mentioned in the WS that he was not liable to pay compensation as the alleged accident happened not due to any rash or negligent driving on the part of the driver of the offending vehicle bearing No. OD-01F-2240-(Motor-Cycle). It has also been mentioned that the claimant was not entitled to get relief as prayed for. It was further contended that the amount of compensation of Rs.20,00,000/- plus cost and interest from the date of application, compensation for pain and suffering etc. as claimed by the victim was abnormal and illegal and as such, the said claim petition was liable to be dismissed against the insurer/opposite party no. 2.

Upon rival pleadings, following issues had been framed for consideration on 27.04.2017:

ISSUES

1. Is the Claim Proceeding maintainable in law, in its present form and prayer ?
2. Whether the petitioner/claimant sustained any injury due to the accident resulting in loss of earning capacity/permanent disability ?
3. Whether the accident was caused due to the fault of the driver of the offending vehicle ?
4.Whether the claimant is entitled to get compensation as prayed for ?
5. To what other relief if any, the petitioner is entitled ?

In this claim case eight witnesses viz. Abhishek Shyamal (PW-1), Krishna Bhakta Bera (PW-2), Pralay Das (PW-3), Sabyasachi Dutta (PW-4), Anup Kumar Kaushik (PW-5), Mithun Das (PW-6), Dr. Santanu Pradhan (PW-7) and Smt. Jyotshna Singha (PW-8) have been adduced on behalf of the claimant/petitioner. On the other hand, no witness has been adduced on behalf of the opposite party No. 2.

The following documents have been marked as exhibits:

1. Certified copy of FIR…………………….…………Exhibit-1.
2. Certified copy of formal FIR………………………..Exhibit -2.
3. Certified copy of Charge-sheet……………………...Exhibit -3.
4. Certified copy of seizure-list dated 26.01.2015……...Exhibit -4.
5. Disability certificate issued by Contai S.D. Hospital…Exhibit -5.
6. Admit Card……………………………………………Exhibit -6.
7. Voter Identity card in original………………………...Exhibit.-7.
8. Injury report issued by Digha State General Hospital in original………………………………………………..Exhibit.-8.
9. Medical papers issued by Sanjibani Hospital in original…………………………………………..X for identification.
10. Medical papers issue by Amri Hospital Kolkata Dhakuria including all medical bills……………………………...Y series for identification.
11. Income certificate issued by Sapua FMBH Samity……………………………………….. Z for identification.
12. Xerox copy of certificate of Registration..……………Exhibit -9.
13. Photo copy of Insurance coverage certificate issued by IFFCO Tokio General Insurance company………………………………Exhibit -10.
14. The authorization letter (one sheet)…………………...Exhibit -11.

15.The original bills of AMRI Hospital amounting to Rs. 4,47,096/- from 03.01.2015 to 19.01.2015 (40 sheets)….Exhibit-12 (collectively).

16. The two Bed Head Tickets containing 68 sheets including two pages discharge certificate……………..Exhibit 13 (collectively).

17. The Money receipt of Dutta Physiotherapy Clinic amounting to Rs. 9,06,700/- from 30.12.18 to 31.03.24 (77 sheets) ……………………………………….Exhibit -14 (collectively).

18. Original Authorization letter certificate one page……Exhibit-15.

19. Discharge summary (4 sheets of ISIC) ……………………………………….Exhibit -16 (collectively).

20. Cash Final Bill of ISIC amounting to Rs. 1,58,457/- from 24.08.17 to 11.09.17 (2 sheets)...………………….Exhibit -17.

21. The OPD Bill of ISIC of Rs. 1,14,421/- from 07.01.17 to 08.11.17 and 14.11.25 to 18.11.25 (25 sheets)……..Exhibit -18 (collectively) .

22. The authorization letter by Dr. Parthapratim Pal (one sheet). ………………………………………….Exhibit -19.

23. The injury report, discharge certificate, progressive report and impatient bill of Sanjiban Hospital amounting to Rs. 62,481/- from 01.01.2015 to 02.01.2015 (12sheets)..…...Exhibit -20 (collectively).

24. The xerox copy compared with the original certificate of Physiotherapist…………………………..Exhibit -21.

25. Compared xerox of Aadhaar card of the claimant.. …………………………………………..Exhibit-22.

26. Compared xerox of regisrattion certificate of Physiotherapist namely Mr. Santanu Pradhan …………………….Exhibit -23.

27. The receipt of payment of Physiotherapist, Mr. Santanu Pradhan of Rs. 4,18,600/- from 31.01.24 to 03.03.26 (27 sheets) …………………………………...…Exhibit-24 (collectively).

28. Compared xerox copy of Nursing Assistant Certificate ……………………………………….Exhibit-25.

29. Xerox copy of registration card compared with the original of the Nursing Assistant namely, Jyostna Singha……...Exhibit -26.

30. Receipt of payment to the Nursing Assistant of Rs. 13,87,395/- from 30.04.15 to 10.08.24 (110 sheets)…………Exhibit-27.

DECISION WITH REASONS

ISSUE NO.1: Is the claim Proceeding maintainable in law, in its present form and prayer ?

Learned advocates for the parties, while arguing their respective cases, did not unfurl this issue. However, it is the bounden duty of the Court to come to a definite conclusion regarding the fact whether the claim case is maintainable or not.

In order to arrive at a conclusion whether the claim case is maintainable or not we have to search for the answers of the following questions :- 1. Whether the claim case comes within the territorial and pecuniary jurisdiction of the court or not ? 2. Is the claim case barred by the rule of res judicata ?

Section 166(2) of the Motor Vehicles Act, 1988 lays down that every application for compensation U/Sec. 166(1) of the M.V. Act shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides and shall be in such form and contain such particulars as may be prescribed.

In the instant case, the accident occurred near Digha Mohana Bye-pass More, within Digha Mohana Coastal P.S. which is well within the territorial jurisdiction of this Court. The claim has been pegged at Rs.20,00,000/- with cost and interest and it is well within the pecuniary jurisdiction of this court. Therefore, there is no doubt relating to the fact that the instant claim case is within the territorial and pecuniary jurisdiction of this court.

Section 11 of the CPC lays down that no Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

The instant claim case arose out of the accident that occurred on 01.01.2015. Ld. Advocate for the O.P no.2 while arguing his case did not raise any point regarding the fact that the instant case is barred by the rules of res-judicata. After perusal of the materials on record I do not find any material whereby it would appear that the claimant had received any other claim under this Act or any other Act. There is no element in the case record which would prove that the claim case is barred by the principle of res judicata. That is why it is held that the instant claim case is not barred by the principle of res judicata.

Thus, issue no. 1 is decided in favour of the claimant and it is held that the claim case is maintainable.

<u>ISSUE NO. 2: Whether the petitioner/claimant sustained any injury due to the accident resulting in loss of earning capacity and rendering him permanently disable ?</u>

This issue is taken up for consideration.

Ld. Advocate for the O.P no.2 submitted that the accident did not occur due to the rash and negligent act of the driver, rather the victim was negligent and the accident had occurred due to his negligence. He also denied the fact that the driver of the alleged vehicle bearing No. OD-01F-2240 (Motor-Cycle) had valid driving license at the relevant time. He further submitted that if any driving license is produced either by the owner and/or the claimant the same will be found to be forged and fake one and the burden of proving the driving license as genuine one lies upon the claimant. Therefore, the insurance company was not liable to pay any compensation.

On the other hand, ld. advocate for the claimant/petitioner submitted that the evidence on record clearly proved that the accident occurred due to rash and negligent driving of the offending vehicle bearing Registration No. OD-01F-2240 (Motor-Cycle). He denied the fact that the driver of the offending vehicle had no valid driving license. Therefore, the insurance company cannot avoid its liability to pay compensation.

Heard ld. advocates for both sides and perused materials on record. It appears that the victim, Abhishek Shyamal has been examined as PW-1. Some documents were marked as exhibit-1 to exhibit-10 as per deposition of pw1.

The PW-1 is the victim himself. According to him on 01.01.2015 at about 2.30 P.M. the driver of the offending vehicle bearing registration No. OD-01F-2240 (Motor-Cycle) was driving said vehicle in rash and negligent manner at a very high speed and it hit him from behind. As a result of the same, he was seriously injured and was taken away to Digha S.G. Hospital, Sanjiban Hospital at Uluberia, AMRI

Hospital at Dhakuria and was treated therein. He was also treated in New Delhi Indian Spinal Injuries Centre. He had expended a lot of money for his treatment in the said hospital. It was further stated that the accident had happened due to the rash driving of the driver of the motor-cycle and a case was started against the driver of the motor-cycle and charge-sheet has been submitted against the driver by Digha Mohana Police Station. He further mentioned that he was able-bodied and used to earn Rs. 7,000/- to Rs. 8,000/- from his shop of pearls, conch and other materials of Sapua Fancy market at Old Digha under the name and style "Aishyria Pearls" and has become 95% physically handicapped due to the accident. He further mentioned that he was 24 years 11 months and 07 days old at the time of the accident and at present he was totally bed-ridden and there is no expectation of recovery. The doctor had opined that he will not recover and he will be able to live with the help of others and medicines.

Disability certificate issued by Contai Sub-Divisional Hospital dated 11.12.2015 was marked as exhibit-5 and it appears from exhibit-5 that the claimant had suffered traumatic dislocation of C4-C5 vertebrae and had suffered 95% permanent disability.

PW-1 had been cross examined at length but learned advocate for the OP 2 could not shake his credibility. So, this court does not find any plausible reason to disbelieve him.

On perusal of the F.I.R, charge sheet and seizure-list in connection with Digha Mohana Coastal P.S case no. 06/2015 (Exhibit-1 series), this court finds that all the documents contain the same and identical facts as made out in the application filed under section 166 of the Motor Vehicles Act. In fact, exhibits-1 to 5 have lent a strong support to the evidence adduced by the PW-1 with regard to rash and negligent driving of the driver of the offending vehicle. The Exhibit-7 is the original Voter Identity card and Exhibit-9 is the xerox copy of Registration of Motor-Cycle. It transpires from the evidence of PW-3, namely, Pralay Das i.e. the medical record keeper of AMRI, Dhakuria and exhibit-12 (collectively) and 13 (collectively) that the claimant had suffered traumatic injury of his spinal cord and C4 and C5 vertebrae were dislocated and he had suffered quadriplegia along with bladder and bowel movement. It further appears from the evidence of and exhibit-14 (collectively) that the victim had received physiotherapy due to his 95% disability from 30.12.18 to 31.03.2024. PW-4, Sri Sabyasachi Dutta i.e. the Physiotherapist. A medical documents that the victim had sustained injuries. It also appears from the evidence of Pw-5, Anup Kumar Kaushik of Indian Spinal Injuries Centre Multispeciality Hospital in New Delhi and from exhibit-15 to exhibit-18 that the victim was treated in the hospital from 07.01.17 to 08.11.17 and also from 14.11.25 to 18.11.25 and had expanded considerable amount of money for management office C4- C5 vertebrae and quadriplegia. It further appears from the Pw-6 Sri Mithun Das of Sanjibani Hospital at Fuleswar, Howrah and exhibit-19 and exhibit-20 that the patient was treated at the said hospital from 01.01.2015 to 02.01.2015 for his treatment after the fatal accident. It also appears from the evidence of PW-7, Sri Santanu Pradhan i.e. the Physiotherapist and exhibit-21, exhibit-22, exhibit-23 and exhibit-24 that the claimant had received physiotherapy from 31.01.24 to 03.03.26. It also appears from the evidence of Pw-8 i.e. Smt. Jyostna Singha i.e. Nursing Assistant and exhibit-25, exhibit-26 and exhibit-27 that the claimant had received the assistance of the nurse from 30.04.15 to 10.08.24.

In view of the evidence adduced by the PW-1 to Pw-8 and in conjunction with the medical documents, this court is of the considered view that the victim, namely, Abhishek Shyamal was injured due to rash and negligent driving of the offending vehicle bearing number OD-01F-2240 (Motor-Cycle) and he had suffered traumatic dislocation of C4-C5 vertebrae and had suffered 95% permanent disability.

Thus, this issue no. 2 is decided in favour of the claimant/petitioner and against the opposite party/parties and it is held that the the accident had occurred due to rash and negligent driving of the driver of offending vehicle bearing no. OD-01F-2240 (Motor-Cycle) and the victim, namely, Abhishek Shyamal was injured in the said accident and he had suffered traumatic dislocation of C4-C5 vertebrae and had suffered 95% permanent disability.

<u>ISSUE NO. 3: Whether the accident was caused due to the fault of the driver of the offending vehicle</u> ?

Ld. Advocate for the O.P no.2 submitted that there was no valid insurance certificate in respect of the offending vehicle and the driver had no valid driving license at the time of the alleged accident. He further submitted that if there is no valid insurance certificate and valid driving license, the insurance company cannot be slapped with liability and the owner of the vehicle would be liable. Therefore, the insurance company was not liable to pay any compensation.

On the other hand, ld. advocate for the claimant/petitioner submitted that there was valid insurance certificate in respect of the vehicle and the driver had valid driving licence at the time of the accident. The insurance certificate was marked as exhibit-10. Therefore, the insurance company cannot escape its liability to pay compensation. He also pointed out the fact that the liability of the insurance company was joint and several.

Heard ld. advocates for both sides and perused materials on record.

The copy of insurance policy of the offending vehicle has been marked as exhibit-10. It appears from the Exhibit-10 that the vehicle bearing number OD-01F-2240 (Motor-Cycle) stood insured with the opposite party number 2 on the date of accident and it was the insurer who agreed to indemnify liability of the registered owner of the offending vehicle to pay compensation to a third party for any road accident involving said vehicle. The liability of the insurance company and the owner are joint and several. There was valid driving licence also. As there is a valid insurance certificate and driving licence on the date of the accident, the insurance company cannot escape his liability to pay compensation to the claimant.

PW-2, namely, Krishna Bhakta Bera was examined and he was the eye-witness of the incident. He mentioned in his AIC that the claimant was walking through the footpath beside the pitch road in front of Bibekananda statue at Digha Mohana Bye-pass road. At that time the driver of the motor-cycle No. OD-01-F2240 hit him from behind and he became seriously injured and he was taken to Hospital. Lastly, he deposed that the accident had happened due to the rash and negligent driving of the driver.

It appears that the Ld. Advocate of the O.P no.2 could not shake the credibility of the witness.

Thus, issue no.3 is decided in favour of the claimant/petitioner and against the O.P no.2 and it is held that the policy of insurance of vehicle bearing registration no. OD-01F-2240 (Motor-Cycle) was valid on the date of accident and the driver had valid driving licence on the date of accident and the accident had occurred due to the fault of the drive. Lastly, there is no cloud of doubt regarding the fact that the O.P no.2 was liable to pay compensation to the claimant.

ISSUE NO. 4: Whether the claimant is entitled to get compensation as prayed for ?

This issue is taken up for consideration. It is apparent from the deposition of PW-1 that i.e. the victim who had filed this claim petition and other witnesses and the argument of Ld. Advocate for the claimant that the claimant was injured in the accident and suffered dislocation of C4-C5 vertebrae in the cervical spine alongwith quadriplegia resulting it loss of bladder and bowel movement. As a result of the same be became paralysis and was 95% disable. The disability had prevented him from doing any work or to move his body by his own and he needs support of a person to perform his daily function. It is pertinent to mention that it is not possible for him to earn anything for his survival and he needs support of a person to move even his body from one place to another.

Ld. Advocate for the O.P. No.-2 refuted the same and submitted that the claimant was not entitled to get compensation.

The disability certificate was marked as exhibit-5. It appears from exhibit-5 that a Medical Board was constituted with five members i.e. five Medical Officers of Contai Sub-Divisional Hospital and the Chairman of the Board had mentioned specifically in the disability certificate that the victim had suffered traumatic dislocation of C4-C5 vertebrae and afflicted with 95% permanent disability.

In this regard, it is pertinent to mention the case of Ranubala Paul and others Vs. Bani Chakraborty and others wherein the Hon'ble

Gauhati High Court held that standard of proof in a claim case in much below than what is required in a criminal case as well as in a civil case; it is a summary enquiry and the Tribunal is not expected to take or to adopt the nicety of a civil or of a criminal case; case remitted to the Tribunal to take a broad view of the whole matter and dispose it of in accordance with law.

In view of the above facts and circumstances, this court is of the considered view that the petitioner being the victim himself is entitled to get compensation in this case.

Thus issue no. 4 is decided in favour of the petitioner/claimant and it is held that he is entitled to get the relief.

ISSUE NO. 5: To what other relief if any, the petitioner is entitled ?

In view of the result of issue no.4, it is held that the opposite party no.2 is liable to pay compensation and not the owner of the vehicle as there was a valid insurance certificate.

The million dollar question is what would be the quantum of compensation which will be accorded to the claimant/petitioner.

Learned advocate for petitioner contended that injured victim, Abhishek Shyamal had incurred expenses of several lakh rupees and he was also entitled to get lump sum amount for pain and suffering and also for future treatment. The Ld. counsel appearing on behalf of the opposite party number 2 submitted that the claimant had not been able to adduce any documentary evidence in support of his claim and accordingly, the claimant is not entitled to get the compensation as prayed for.

The million dollar question is what would be the quantum of compensation which will be accorded to the claimant/petitioner.

The petitioner has contended that injured victim, Abhishek Shyamal used to earn average Rs. 8,000/- per month from business. The Ld. counsel appearing on behalf of the opposite party number 2 during argument submitted that the claimant had not been able to adduce any documentary evidence in support of the income of the victim and accordingly, the claimant is not entitled to get the compensation as prayed for.

The claimant/petitioner was only 24 years 11 months and 7 days old at the time of the accident and at present he is 35 years old. He has 95% permanent disability (exhibit-5) due to the accident and moves with the support of a wheel-chair. There was dislocation of C4 and C5 facet joint with retrolisthesis of C5 causing cord compression, cord contusion and edema in the cervical spine. Both upper and lower limbs have been disabled and the victim needs physiotherapy all through his life. The victim was unable to control bladder and bowel movement and has bed-sores on sacral region and therefore, constant nursing is necessary to heal the bed-sores and for attending his daily needs. The victim is under constant treatment. He incurs daily expense of Rs 1600/- for cost of medicine, cost of physio therapy and cost of nursing as per his own version during argument. On being asked about his daily expense, the claimant who was present in court in a wheel chair with an attendant, informed the court in a subdued tone about his daily expense. It appears from the affidavit in chief of the victim that he was treated at different hospitals like Sanjiban Hospital, Amri Dhakuria Hospital and Indian Spinal Injury Center in New Delhi and he was also treated by many private doctors. It also appears that two physiotherapists and one nursing assistant had treated him and he had incurred expense of huge amount of money by taking loan from different persons. It further appears that he used to earn from his shop situated at Sapua Fancy Market at Old Digha and used to maintain his parents and himself. At present, his old father and mother are unable to bear the expenses of themselves and the claimant. The claimant informed during argument that his old parents had taken care of him by selling their land. They do not have any other land apart from the dwelling house. It appears from the evidence of pw 7 i.e. the physiotherapist, namely, Sri Santanu Pradhan and exhibit 24 (collectively) and also the evidence of pw4 and exhibit 14 (collectively) that the claimant incurs expense of Rs. 600/- per day on an average for the purpose of physiotherapy. It further appears from the evidence of pw 8 i.e. the nursing assistant, namely, Smt. Jyotsna Singha and exhibit 27 (collectively) that the claimant incurs expense of Rs. 250/- per day on an average for the purpose of nursing. It also appears from exhibit 12 (collectively), exhibit 17, exhibit 18 and exhibit 20 that the claimant had incurred huge expense for the purpose of purchasing medicine. One must not be myopic of the fact that the claimant had got exhibited the medical bills of Sanjibani Hospital, Howrah from 01.01.2015 to 02.01.2015(exhibit 20), from 03.01.2015 to 19.01.2015 of AMRI, Dhakuria (exhibit 12), from 07.01.2017 to 11.09.2017 and from 14.11.2025 to 18.11.2025 of Indian Spinal Injury Centre Multispeciality Hospital, New Delhi(exhibit 17 and 18). Though the victim had purchased medicine in other dates apart from the above dates in between 01.01.2015 till 30.08.2026 those could not be exhibited. Apart from the exhibited medical bills, the claimant had filed a lot of medicine purchase vouchers but those could not be exhibited due to non-availability of the witnesses. The claimant also informed the court that he had purchased medicine through online due to their high rebate percentage and did not have purchase voucher for the same. The claimant had got exhibited physiotherapy bills for the period from 30.12.2018 till 03.03.2026 (exhibit 14 and 24) and could not bring other bills though he had received the same since after release from AMRI Hospital on 19.01.2015. The claimant had got exhibit nursing attendance bills for the period from 30.04.2015 till 10.08.2024 (exhibit 27) and could not bring other bills though he had received the same since after release from AMRI Hospital on 19.01.2015. Thus, there is no cloud of doubt regarding the fact that the claimant should get a lump sum amount for the purpose of future treatment and attendance.

In this regard it is necessary to refer the following case laws:-

In the case of **Baby Sakshi Greola Vs. Manzoor Ahmad Siman 2024 SCC Online SC 3692 (Delivered on 11.12.2024) the Hon'ble Justices Mr. B.R. Gavai and Mr. K.V. Viswanathan** increased the amount to Rs. 50,87,000/- where the Tribunal had awarded Rs. 5,90,750/- and the High Court had awarded Rs. 11,51,000/- to the minor girl child who suffered permanent disability due to road accident.

In the case of **Ku Chetana Sharma Vs. Pawan Sharma 2026 INSC 676 & Ors. the Bench of Hon'ble Justices N. Kotiswar Singh and Justice K. Vinod Chandra (Delivered on 08.07.2026)** increased the amount of compensation to Rs. 87,15,137/- to the 13 years old permanently paralysed girl in a road accident on 23rd June, 2018. The girl was 06 years old and was travelling in a car with her mother when the offending vehicle hit the car. She had suffered severe spinal injuries resulting in permanent paralysis. In that case the Motor Accident Claim Tribunal had awarded 14.84 Lakh and the High Court had increased the amount to 20.84 Lakh. In that case the Hon'ble Supreme Court held that functional disability, life long care and just compensation must be realistically assessed.

The Hon'ble Supreme Court in the case of **Ku Chetana Sharma (Supra)** had followed the decision in **Baby Sakshi Greola (Supra)** and modified and enhanced the award of the Tribunal in the following manner :-

Sr. No.	Compensation for	Amount
1	Loss of earning capacity (9560x140%x12x18)	Rs.28,90,944/-
2	Medical expenditure	Rs.5,54,233/-
3	Incidental expenses during the 58 days hospitalization	Rs. 25,000/-
4	Attendant expenses (9560x12x18)	Rs.20,64,960/-
5	Pain & suffering	Rs,15,00,000/-
6	Loss of Marriage prospects	Rs. 5,00,000/-
7	Expenses for future care (5000x12x18)	Rs.10,80,000/-
8	Transportation & Special Diet	Rs. 1,00,000/-
	Total	Rs.87,15,137/-

In the case of **Ramshad P. Vs. Afsal & Others (SLP Civil No. 15867 of 2026: Decided on 02.06.2026) Hon'ble Justices Mr. Sanjay Karol, Mr. Augustine George Masih and Mr. Arun Palli** enhanced the claim amount to 1,46,80,160/- for the 20 years old fully paralysed man where the MACT had awarded Rs. 64,71,050/- and the High Court had awarded Rs. 93,23,450/-. The Hon'ble Supreme Court enhanced the compensation in the following manner :-

Compensation Heads	Amount Awarded
Monthly Income	Rs. 18,900/-
Yearly Income	Rs.2,26,800/-
Future Prospects (40%)	2,26,800/- + 90,720/- = Rs. 3,17,520/-
Multiplier (18)	3,17,520 x18 = Rs. 57,15,360/-
Permanent Disability (100%)	100% of 57,15,360/- = 57,15,360/-
Loss of Income/Future Earnings due to disability	Rs. 57,15,360/-
Attendant Charges	Rs. 62,64,800/-

Special Diet & Transportation	Rs. 2,00,000/-
Pain and Suffering	Rs.10,00,000/-
Loss of Happiness & Amenities	Rs.10,00,000/-
Marriage Prospect	Rs. 5,00,000/-
TOTAL	Rs.1,46,80,160/-

In the **Ramshad P. Case (supra)** the claimant, a 20 years old youth, who was travelling in a car sustained catastrophic spinal injuries, including C6-C7 spondylolisthesis and cervical cord injury, resulting in 100% permanent disability with the claimant being permanent bed-ridden when the car overturned due to the rash driving of the driver. He was entirely dependent on others for his daily survival. The accident had happened on 24.04.2018 and the Hon'ble Supreme Court had refixed the monthly income of the claimant as Rs. 18,900/- per month i.e. the monthly salary of a skilled labour in Kerala on 24.04.2018 raising it from Rs. 13000/- per month fixed by the High Court.

Reverting back to the case at hand, it appears that the claimant, 24 years 11 months and 7 days old person, had suffered traumatic dislocation of C4-C5 vertebrae with 95% disability and had suffered similar damage like the victim in the **Ramshad P. case(supra).** As per Circular no. 4/Stat/2RW/76/266/2000/LCS/JLC dated 02.01.2015 of Government of West Bengal monthly minimum rates of wages of skilled labour in the Zone B of West Bengal was Rs. 8016/- for the period 1st January, 2015 to 30th June, 2015. The residence and work place of the claimant are situated in Zone B of the State of West Bengal and therefore, his monthly income must be reckoned as Rs. 8016/-.

Thus, the yearly income of the claimant would be Rs. 96192/- (8016/-x12000/-). If 40% of the same is added, it would become Rs. 1,34,669/-(96192/-+38,477/-). The disability of the claimant is 95% as per the disability certificate (exhibit 5). In the case of Ku Chetana (supra) though the disability was 80% as per the disability certificate, the Hon'ble Supreme Court regarded it as 100%. Given the condition of the claimant in this case, it should be regarded as 100% but I am restraining myself to 95%. Therefore, the amount would be Rs. 1,27,936/-(134669/-x95%). As the claimant was below 25 years, it would take Multiplier 18 and the amount would be Rs. 23,02,848/- (1,27,936 x18). [Reference: **Sarala Verma** & Others v. Delhi Transport Corporation & Another (2009 SC: Two Hon'ble Judges :: National Insurance Company Ltd. v. **Pranay Sethi** & Others(Delivered on 31.10.2017 SC Five Hon'ble Judges)]

Total cost of OPD, hospital charges and cost of medicines would be Rs. 4,47,096/-(Exhibit 12) + Rs. 1,58,457/- (exh-17)+1,14,421(exh-18) + Rs. 62,481/- (exhibit 20)= 7,82,455/-

Total cost of physiotherapy would be Rs. 9,06,700/-(exhibit 14) +4,18,600/-(exhibit 24)= 13,25,300/-

Total cost of nursing assistant would be Rs. 13,87,395/- (exhibit – 27).

The claimant has suffered a lot and will continue to suffer all through his life. So, the compulsory amount for pain and suffering would be Rs. 10,00,000/- **[Reference:Ku Chetana Sharma Case & Ramshad P. Case: supra].**

The claimant has got no prospect of marriage. Therefore, the total amount for loss of marriage prospect would be Rs. 5,00,000/- **[Reference:Ku Chetana Sharma Case & Ramshad P. Case: supra].**

An attendant is required for the claimant althrough his life. In the Ku Chetana Sharma Case (supra) the Hon'ble Supreme Court had calculated the same with the salary of skilled labour in 2018. The instant accident had happened on 1st January, 2015. As per Circular no. 4/Stat/2RW/76/266/2000/LCS/JLC dated 02.01.2015 of Government of West Bengal monthly minimum rates of wages of skilled labour in the Zone B of West Bengal was Rs. 8016/- for the period 1st January, 2015 to 30th June, 2015. It would take the multiplier 18 as the claimant was below 25 years at the date of accident. Therefore, the attendant expense would be Rs. 17,31,456/- (8016 x 12 x 18) **[Reference:Ku Chetana Sharma Case & Ramshad P. Case: supra].**

The claimant had incurred huge loan for the purpose of his treatment and huge expence is likely to be incurred by him. He is supposed to bear the burden of his old parents but instead his old parents being hand to mouth people have been burdened with the fully paralysed claimant. It is fact that the claimant had already incurred expense of Rs. 34,95,150/- for the purpose of his treatment, physiotherapy and nursing during the 11 years 07 months and 20 days since 01.01.2015 i.e. the date of accident. The claimant needs medicines, catheter, diaper, gauze, cotton and other necessary materials for his care and treatment. So, the amount of Rs. 5000/- per month would be just and it would take the multiplier 18, as the claimant was below 25 years of age at the time of the accident. Therefore, for the expense of future care the just amount would be Rs.10,80,000/- (5000 x 12 x 18) **[Reference:Ku Chetana Sharma Case & Ramshad P. Case: supra].**

Sufficient amount have already been expended and will be expended in future for transportation and special diet of the claimant. One must not be myopic of the fact that the claimant had to and will have to travel upto Kokata and New Delhi from Digha i.e. the last part of West Bengal and border of Orissa for the purpose of his treatment.

So an amount of Rs. 2,00,000/- would be just for the purpose of expense of transportation and special diet. **[Reference: Ramshad P. Case: supra].**

Thus, the amount of Rs. **1,03,09,454/-** (23,02,848/- +7,82,455+13,25,300/-+13,87,395/-+10,00,000/-+5,00,000/- +17,31,456/-+10,80,000/-+2,00,000/-) would be just compensation as per the provision of as per the provision of **Section 168(1)** of the Motor Vehicles Act, 1988.

Now the trillion-dollar question is whether interest is to be paid or not, if yes, what would be the quantum of the interest.

Ld. Advocate for the claimant/petitioner also submitted that the claimant is also entitled to get interest at least @ 6% per annum over the claim amount from the date of filing. Ld. Advocate for the O.P no.2 submitted that the petitioner is not entitled to get interest. Heard Ld. Advocates for both sides and perused materials on record.

In regard to granting of interest, it must be borne in mind that grant of interest is not charity to the hapless victims or to the family members of the victims but a mandate of the beneficial statute. **Section 171** of the Motor Vehicles Act, 1988 lays down that 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 also 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.

The Insurance Company concerned that is O.P. no.2 which is supposed to be a financial institution cannot claim exemption from giving interest. So, far as regards the payment of interest is concerned, there is no ambiguity in view of the Judgment of the Hon'ble Supreme Court in catena of decision including the case of **Santosh Gupta and Another Vs. Surjit Singh and Others**. In the case of Santosh Gupta case, the Hon'ble Supreme Court had accorded 6% interest per annum and in another very recent case of **Karamjit Kaur and Others Versus Royal Sundaram Alliance Insurance Co. and Another** the Hon'ble Justice A.S. Bopanna and Justice Dipankar Datta of the Hon'ble Apex Court had been pleased to allow interest @ 7.5 % per annum. In the **Ramshad P. Vs. Afsal & Others (SLP Civil No. 15867 of 2026: Decided on 02.06.2026) Hon'ble Justices Mr. Sanjay Karol, Mr. Augustine George Masih and Mr. Arun Palli** concurred with the view of the **High Court at Kerala** and had been pleased to allow interest @ 8% per annum. Therefore, in view of the above facts and circumstances I am of the considered view that interest @ 8% per annum must be allowed over the compensation amount.

Thus, this issue no. 5 is decided in favour of the petitioner/claimant and it is held that the O.P no.2 is liable to pay compensation to the tune of **Rs. 1,03,09,454/-** (Rupees one crore three lakh nine thousand four hundred and fifty four only) along with **8%** interest per annum from the date of filing till the time of payment to the petitioner/claimant.

As a result, the claim succeeds.

The petitioner is directed to pay deficit court fees, if any, within 30 days from the date of delivery of this Judgment.

Hence, it is,

ORDERED

that the claim case under **Section 166** of the M.V Act is allowed on contest against the opposite party number 2 and is dismissed ex-parte against the opposite party number 1. There would be no order as to any other costs.

The petitioner do get an award of **Rs. 1,03,09,454/-** (Rupees one crore three lakh nine thousand four hundred and fifty four only) along with **8%** interest from the date of filing of the claim petition till the date of realization.

The opposite party No. 2, IFFCO-TOKIO-General Insurance Co. Ltd is directed to issue an account payee cheque in favour of petitioner/claimant, namely, Abhishek Shyamal as compensation in respect of the above mentioned claim amount within thirty days from the date of delivery of judgment as per the provision of **Section 168(3)** of the Motor Vehicles Act, 1988.

Let a copy of this judgment be provided to the parties free of cost for compliance as per the provision of **Section 168(2)** of the Motor Vehicles Act, 1988.

Thus, the instant claim case is disposed of.

D/C by me.

JUDGE
M.A.C.C. Tribunal,
Fast Track, 2nd Court,
Contai, Purba Medinipur.

JUDGE
M.A.C.C. Tribunal,
Fast Track 2nd Court,
Contai, Purba Medinipur.