In the Court of the Additional District Judge -Cum-

Judge, Motor Accident Claims Tribunal, 4th Court,

Berhampore, Murshidabad.

Present : S. Arnab Ghosal
Additional District Judge-cum-
Judge, Motor Accident Claims Tribunal,
4th Court, Berhampore, Murshidabad.
JO Code-WB00809.

M.V. Case No. 229 of 2017

CNR No.WBMD01-000111-2013

Hasina Khatun & Others …..Petitioners/Claimants

Versus

National Insurance Co. Ltd……............. Opposite Party

Manirujjaman Molla .... Ld. Advocate for the petitioner

Subhanjan Sengupta .... Ld. Advocate for the OP

Date of Delivery of Judgment : 30th day of June, 2026

JUDGMENT

Safikul Islam, a civic volunteer, met his end in the afternoon of 15 April 2017 when a truck with registration number WB 57C/0402 hit him at or about Sudna. The truck was driven at great speed and its driver was rash and negligent. The injuries that Safikul sustained because of the impact snuffed out his life on the same day despite doctors at Malda Medical College and Hospital trying their best. The petitioners – widow, parents and minor child of the victim took out an application under section 166 of the Motor Vehicles Act, 1988 and put forth their claim to compensation self-assessed at ₹ 10.5 lakh.

The owner of the truck chose to stay away but his insurer – National Insurance Co Ltd decided otherwise. The insurer's written statement denied not only the incident but also the involvement of the truck in question in such incident. Refuting all material allegations including that of rashness and negligence the insurer asked for dismissal of the petitioners' claim application with costs.

As one of the previous orders suggests, issues were framed in a separate sheet. However, as no such sheet could be traced out my discussion would be hedged and guided by the following pointers – occurrence of the incident, involvement of the vehicle identified as the harbinger of death, and rashness and negligence on the part of the driver.

The wife of the deceased deposed as PW1. She was followed by Abdul Amin/PW2 and Manoj Ghosh/PW3. Oral evidence in support of the claim was sought to be supplemented by documentary evidence that were marked Exhibit 1 through Exhibit 13. The contesting insurer was given a number of opportunities to adduce evidence but it decided not to do with any. Consequently, the matter was fixed for argument.

While the learned advocate for the petitioners relied principally upon the written notes on arguments, the learned advocate for the insurer advanced arguments of the usual oral kind. After generally commenting in the negative about the petitioners' case the learned advocate for the insurer squarely attacked the petitioners' contention that the deceased was employed as civic volunteer.

With the closure of arguments, the case could be posted for judgment.

<u>Decision with reasons</u>

Absolutely nothing was urged against the maintainability of the instant application for compensation. Considering the incidents of the case in hand I am of the clear view that this was a correct approach to adopt by the insurer. The petitioners' claim was not liable to be displaced on the vacuous plea of non-maintainability.

The wife of the deceased was not an eyewitness to the occurrence. However, she would successfully prove the death of her husband, and lay the foundation for the assertion that the husband was employed as civic volunteer drawing a monthly pay of ₹ 5500/. Additionally, the wife was the conduit through which a major portion of the documentary evidence was admitted in the case.

The second witness, Abdul Alim, claimed to have seen the incident. This witness is a civic volunteer. The deceased, he says, was his colleague. According to the witness, on the day of the incident at about 2:45 PM a truck registered as WB 57C/0402 was found moving at great speed towards Kotalpukur. No sooner than Safikul had indicated the driver of the truck to slow down it veered towards Safikul and hit him with great force. Safikul was very seriously injured. The truck could be stopped and detained. Safikul was shifted to Malda Sudder hospital via a local treatment centre where he breathed his last at about 8.30 in the evening. It was this witness who had lodged a written complaint with the police in respect of the incident. Cross examination of PW2, in its material part, was limited to the suggestion that he was not a civic volunteer.

The third witness for the petitioners was a police officer. This witness proved the 'working statement' of civic volunteers for the month of February, 2017 (Exhibit 12). It was suggested to this witness in cross examination that the documents he had produced and submitted were all manufactured.

The 'working statement' or Exhibit 12 is a computer-generated statement containing the details of civic volunteers attached to Farakka police station. This statement in addition to the names of the civic volunteers also supplies their bank account details where, presumably, the monthly pay was to be credited. The name of the deceased is found against serial number 48 of the statement. "Abdul Alim" comes at 49. The bank account number of the deceased is recorded as 34875962095 with IFSC code SBIN000 7099. Copies of the deceased's bank passbook have been marked Exhibit 11. These documents contain the bank account number and the IFSC code which I have quoted above after reading them from the Exhibit 12. The logical connection is thus established. Matching of the bank and bank account details leads me to the only possible conclusion that Safikul was a civic volunteer who used to be paid for his services by the police department by crediting his bank account. There is no other reason why Safikul's name along with bank details would figure in the Exhibit 12 which was not a private document but police papers produced before the court and proved by police personnel.

Abdul Amin/PW2 claimed to be civic volunteer number 49. I have already noted that "Abdul Amin" came at serial number 49 in the Exhibit 12. The learned advocate for the insurer had an opportunity to substantiate his suggestion that PW2 was not a member of the civic volunteer force when he was cross examining PW3. It was not even suggested to PW3 that Abdul Amin was not a civic volunteer. In fact, it was also not suggested to the witness that Safikul Alam was not a civic volunteer. PW2's testimonial assertion that he was a colleague of the deceased receives substantial corroboration from the fact that on the second day of the incident he had lodged a written complaint with Farakka police station describing him as civic volunteer number 49. Additionally, this witness's testimony in general describing the incident is found to be squarely supported by the contents of his written complaint which was "former statement" made before an authority legally competent to investigate (see section 157 of the Indian Evidence Act, 1872). All said and done, the evidence on record clearly establishes that PW2 was not lying when he said that on the day of the incident he, along with the deceased, was doing "traffic duty", both being members of the civic volunteer force. It is a judicially noticeable fact that civic volunteers exist, and that they assist the regular police force in managing traffic. Safikul and Abdul Alim were civic volunteers, and in that capacity they were on the road at the time and place of the incident.

Once it is accepted that PW2 had every reason to be at the place of occurrence at the relevant time his testimony assumes paramount importance. PW2 becomes an eyewitness and his narrative, unshaken by cross examination, drives home rashness and negligence of the driver of the truck that was registered as WB 57C/0402.

PW2's written complaint had engendered a criminal case. After completing the investigation police submitted charge sheet against the driver of the offending truck. This certainly propped the petitioners' case of rashness and negligence on the part of the driver. Police investigation revealed that the driver had a valid driving license. It was also revealed that the vehicle had insurance coverage till 23 March 2018. The post mortem report

(Exhibit 4) hints at a violent death compatible with impact with a speeding truck.

The occurrence or the incident is certainly established. That the offending truck was the cause of death is also beyond the pale of controversy. The eyewitness's evidence, amply corroborated, clinches the issue of rashness and negligence. The foundational issues having thus been answered in favour of the petitioners it is time to move on to the quantification aspect of the matter.

According to the wife of the deceased, her husband used to earn ₹ 5500 per month. Certain entries reflected in the bank passbook of the deceased hint at monthly payments of ₹ 5145/. Accepting this figure as the income of the deceased, yearly income comes to ₹ 61740/. The deceased was survived by his wife, parents and a minor daughter. Hence, I should deduct one-fourth of the yearly income in order to arrive at the multiplicand. After the deduction, the multiplicand comes to ₹ 46,305/. The post mortem report notes the age of the deceased as 26. In the absence of categorical challenge regarding age I am prepared to accept that Safikul was 26 at the time of the incident. Age of 26 brings into play the multiplier 17. Therefore, the loss of dependency comes to ₹ 787,185/.

Engagement as civic volunteer cannot be equated to having a permanent and stable job. Hence, in the glow of light provided by Pranay Sethi & Ors., I must add 40% on account of future prospects. The loss of dependency thus augmented comes to ₹ 11, 02,059/.

Further possible accretions under the heads 'loss of estate', 'loss of consortium', and 'funeral expenses' are required to be enhanced at the rate of 10% at three yearly intervals (as directed by the honourable Supreme Court in the case of Pranay Sethi). Consequent upon such enhancement, the figures under the respective heads come to ₹ 18,150/, ₹ 48,400/and ₹ 18,150/.

The final compensation amount thus comes to ₹ 11, 86,759/.

So far as the rate of interest on the award is concerned, considering the history of the litigation that suggests possible apportionment of blame for the delay among the contesting litigants in equal measure, I'm of the opinion that 6% would serve the ends of justice.

To sum up, the application for compensation thus meets with success.

Hence,

O r d e r e d

That the application registered as MV Case 229 of 2017 is allowed on contest against the OP – 2 National Insurance Co Ltd and dismissed against the owner of the offending vehicle/OP1.

The OP/Insurance Company is directed to pay ₹ 11,86,759/to the claimants within two months of this day along with interest at the rate of 6% per annum from the date of filing the instant application till the realisation of the award.

The payment shall be apportioned as follows:

₹ 1 lakh each to the parents of the deceased; ₹ 3 lakhs to the minor child; and the remainder of ₹ 6,86,759/to the wife of the deceased. The payments are to be made by individual cheques drawn in favour of the adult claimants bearing proportionate share of the interest component.

The child's share in the award shall be disbursed in favour of her mother by account payee cheque and on condition that she shall preserve the sum in fixed deposit till the child attains majority.

A copy of this judgment is to be given to the OP/Insurance Company free of cost, for due compliance. Free copy or copies may also be given to the petitioners upon their paying the full court fee, if not already paid in the meantime.

S. Arnab Ghosal

ADJ, 4th Court,

Berhampore