

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1096 of 2024

Magma HDI General Insurance Co. Ltd.

Versus

Anjan Ghosh & Anr.

With

COT 14 of 2025

Anjan Ghosh

Vs.

Magma HDI General Insurance Co. Ltd. & Anr.

With

FMA 1471 of 2024

Magma HDI General Insurance Co. Ltd.

Vs.

Anajan Ghosh & Anr.

With

COT 15 of 2025

Anjan Ghosh

Vs.

Magma HDI General Insurance Co. Ltd. & Anr.

For the Appellant	:	Mr. Rajesh Singh
For the Respondent	:	Mr. Amit Ranjan Roy

Heard & Judgment on	:	10 th August, 2026
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Ananya Bandyopadhyay, J:

In Re: FMA 1096 of 2024

With

COT 14 of 2025

14. Both the Learned Advocates representing the appellant/Insurance Company and the respondent No.1/claimant are present.
15. The instant appeal had been filed against the judgment and award dated 22nd December, 2023 passed by the Learned Judge, Motor Accident Claims Tribunal, Katwa, Purba Bardhaman in M.A.C. Case No. 103 of 2016.
16. An application under Section 166 of the Motor Vehicles Act had been filed on account of the death of the victim in an accident which occurred on 29.02.2021 at about 12.35 P.M. on Uddharanpur Bolpur Road near Nirol Bat tala under P.S. Ketugram police station in Burdwan with the involvement of the offending vehicle being Dumper bearing registration No. WB-53B/1656 which approaching at a negligent and reckless manner collided with the victim who was stationed with his motor cycle along with his wife and son by the side of the road. Sudden impact of such collision inflicted grievous injuries on the victim who succumbed to the same at Katwa S.D. Hospital.
17. The Learned Advocate representing the appellant/Insurance Company submitted the offending vehicle was not involved in the accident and had been falsely implicated in the charge-sheet. It was further submitted that P.W. 2 in his examination-in-chief had narrated the entire course of the accident. However, he was not

an eye witness, therefore, his evidence was unreliable. It was further pointed out that the registration Number of the offending vehicle at the time of filing of the initial complaint was stated to be WB-45-1714. Thereafter, the complainant was informed by the local people of the actual registration number of the Dumper. The learned advocate representing the appellant/insurance company, however, submitted that the eye-witness in the instant accidental claim case had not been examined.

18. The learned Advocate representing the respondent/claimant submitted the learned tribunal to have erred in not granting future prospect and general damages.
19. Considered the submissions of the learned Advocates representing both the parties.
20. The occurrence of the accident, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company,
21. The Hon'ble Supreme Court held the following in Ranjeet & Anr. Vs. Abdul Kayam Neb & Anr¹
22. 4. *It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the*

¹, SLP(c) No. 10351/2019

bus driver. Even if the eye-witnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.

23. *The Hon'ble Supreme Court held the following in Sanju Bai Prajapati & Ors. Vs. The New India Assurance Co. Ltd. & Ors.*²

24. *We see from the FIR that based on the Murg report an investigation was carried out in the course of which the eyewitness was detected and Annexure P-2 FIR was registered. We do not find any reason to disbelieve the FIR, especially since the insurance company did not make any attempt to examine the investigating officer before the Tribunal.*

25. The Court on an earlier occasion directed the learned advocate representing the State to place a copy of the case diary in connection with G.R. Case No. 53B of 2016 wherein the charge-sheet had categorically mentioned the involvement of the offending vehicle bearing Registration No. WB-53B/1656. The driver of the offending vehicle to have been arrested obliterating the issue raised by the Learned Advocate representing the appellant/insurance company that offending vehicle as aforesaid had not been involved in the accident. More-over, the documents placed on record on behalf of the State in connection with Ketugram Police Station Case No. 64/16 dated 29.02.2016 had

² Special Leave Petition (c) No. 13455 of 2023

also mentioned the statements of eye-witness and the owner of the offending vehicle No. WB-53B/1656 to have been recorded under Section 161 of the Code of Criminal Procedure.

26. In view of the aforesaid discussions and the decisions as mentioned above, the claimant is entitled to a claim as computed below.

Monthly Income	Rs. 16152/-
Annual Income	X 12
	Rs. 1,93,824/-
Future Prospect (10%)	Rs. 19,382/-
	Rs. 2,13,206/-
1/3 rd Personal Expenses	Rs. 71,068/-
	Rs. 1,42,138/-
Multiplier to be "11"	X 11
	Rs. 15,63,518/-
General damages	Rs. 36,000/-
	Rs. 15,99,518/-

27. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.21,45,233/-(Rs. 25,000/- + 21,20,233/-) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company. In the event of any shortfall in the amount, the insurance company shall deposit the shortfall amount within eight weeks from the date of communication of this order.
28. The Respondent Nos. 1 /claimant is entitled to receive the amount of Rs. 15,99,518/- at the rate of 6% per cent per annum

from the date of filing of the claim application i.e. 11.08.2016 till the date of actual realization.

29. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited along with accrued interest to the bank account of the present respondent Nos. 1 /claimant in as mentioned in the impugned judgment and order passed by the Learned Judge, Motor Accident Claims Tribunal, Katwa, Purba Bardhaman in M.A.C. Case No. 103 of 2016 on proof of proper identification of the respondent No.1/claimant subject to payment of ad valorem Court fees.
30. The instant appeal and connected cross objection are disposed of accordingly.
31. The pending applications, if any, stands disposed of.

In Re: FMA 1471 of 2024

With

COT 15 of 2025

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent No.1/claimant are present.
2. The instant appeal had been filed against the judgment and award dated 20th January, 2024 passed by the Learned Judge,

Motor Accident Claims Tribunal, Katwa, Purba Bardhaman in M.A.C. Case No. 104 of 2016.

3. An application under Section 166 of the Motor Vehicles Act had been filed on account of the death of the victim in an accident which occurred on 29.02.20216 at about 12.35 P.M. on Uddharanpur Bolpur Road near Niroi Bat tala under P.S. Ketugram police station in Burdwan with the involvement of the offending vehicle being dumper bearing registration No. WB-53B/1656 which approaching at a negligent and reckless manner collided with the victim who was stationed with his motor cycle along with his wife and son by the side of the road. Sudden impact of such collision inflicted grievous injuries on the victim who succumbed to the same at Katwa S.D. Hospital.
4. The Learned Advocate representing the appellant/Insurance Company submitted the offending vehicle was not involved in the accident and had been falsely implicated in the charge-sheet. It was further submitted that P.W. 2 in his examination-in-chief on affidavit had narrated the entire course of the accident. However, he was not an eye witness, therefore, his evidence was unreliable. It was further pointed out that the registration number of the offending vehicle at the time of filing of the initial complaint was stated to be WB-45-1714. Thereafter, the complainant was informed by the local people of the actual registration number of

the dumper. The learned advocate representing the appellant/insurance company, however, submitted that the eye-witness in the instant accidental claims case had not been examined.

5. The learned Advocate representing the respondent/claimant submitted the learned tribunal to have erred in not granting future prospect and general damages.
6. Considered the submissions of the learned Advocates representing both the parties.
7. The occurrence of the accident, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company,
8. The Hon'ble Supreme Court held the following in *Ranjeet & Anr.* Vs. Abdul Kayam Neb & Anr³

4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eye-witnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.

32. *The Hon'ble Supreme Court held the following in Sanju Bai Prajapati & Ors. Vs. The New India Assurance Co. Ltd. & Ors.*⁴

We see from the FIR that based on the Murg report an investigation was carried out in the course of which the eyewitness was detected and Annexure P-2 FIR was registered.

³, **SLP(c) No. 10351/2019**

⁴ Special Leave Petition (c) No. 13455 of 2023

We do not find any reason to disbelieve the FIR, especially since the insurance company did not make any attempt to examine the investigating officer before the Tribunal

33. The Court on an earlier occasion directed the learned advocate representing the State to place a copy of the case diary in connection with G.R. Case No. 53B of 2016 wherein the charge-sheet had categorically mentioned the involvement of the offending vehicle bearing Registration No. WB-53B/1656. The driver of the offending vehicle to have been arrested obliterating the issue raised by the Learned Advocate representing the appellant/insurance company that offending vehicle as aforesaid had not been involved in the accident. More-over, the documents placed on record on behalf of the State in connection with Ketugram Police Station Case No. 64/16 dated 29.02.2016 had also mentioned the statements of eye-witness and the owner of the offending vehicle No. WB-53B/1656 to have been recorded under Section 161 of the Code of Criminal Procedure.

34. In view of the aforesaid discussions and the decisions as mentioned above, the claimant is entitled to a claim as computed below.

Monthly Income	Rs. 3000/-
Annual Income	X 12
	Rs. 36,000/-
	Rs. 9000/-

Future Prospect (25%)	Rs. 45,000/-

1/3rd Personal Expenses	Rs. 45,000/- Rs. 15,000/-
Multiplier to be "13"	Rs. 30,000/- X 13
General damages	Rs.3,90,000/- Rs. 36,000/- Rs.4,26,000/-

35. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.6,66,105/-(Rs. 25,000/- + 6,41,105/-) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
36. The Respondent Nos. 1/claimant is entitled to receive the amount of Rs. 4,26,000/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 11.08.2016 till the date of actual realization.
37. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited along with accrued interest to the bank account of the present respondent Nos. 1/claimant as mentioned in the impugned judgment and order passed by the Learned Judge, Motor Accident Claims Tribunal, Katwa, Purba Bardhaman in M.A.C. Case No. 104 of 2016 on proof of proper identification of the respondent No.1/claimant subject to payment

of ad valorem Court fees and refund the balance amount, if any, through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

38. The instant appeal and connected cross objection are disposed of accordingly.
39. The pending applications, if any, stands disposed of.
40. The TCR be sent down to the concerned tribunal forthwith.
41. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)