

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

20.08.2026
Item No.130
Ali
ct. no.9

FMA 4623 of 2016

**Md. Abid Equbal & Ors.
Vs.
The United India Insurance Company Ltd. &
Anr.**

Mr. Amit Ranjan Roy
....for the appellants/claimants.

Ms. Sucharita Paul
..... for the respondent No.1/Insurance Co.

1. Learned advocates for the parties are present.
2. Heard learned advocates.
3. The appellants before this Court were claimants in a case under Section 166 of the Motor Vehicles Act, 1988, and is aggrieved by the judgment and award dated 16th May, 2015 passed by learned Additional District Judge, Fast Track Court, Asansol, Paschim Bardhaman, in MAC Case No. 09 of 2013.
4. The case of the claimants before the learned Trial Court may be summed up thus:

"At the material time on 15.04.2012 at about 02:40 P.M. when the victim was proceeding towards Raniganj Bazar side from Sahebganj side by riding Motor cycle being No. WB38A-3610 at

that time near Sahebganj More Chanachoor Factory under P.S. Raniganj one another motor cycle being No. WB 38Z-9220 driven by driver rashly and negligently dashed the said motor cycle from behind. As a result of such accident, the victim sustained fatal injury and fell down on the road. She was shifted to Begunia Health Centre where she succumbed to his injuries. The petitioners are suffering acute financial crisis on account of the death of the victim.

5. Pursuant to the filing of this case notice was issued upon the opposite parties. Opposite party vehicle owner did not contest the case. However, opposite party United India Insurance Company Ltd. contested the case by filing written statement. Issues were framed and evidences were adduced. Learned Trial Judge upon considering the evidence adduced and upon hearing the learned advocates was pleased to dispose of the claim case by observing and directing as follows:

"Hence, it is,

ORDERED

that the instant M.A.C. Case be and the same is allowed on contest against the O.P. No.2 United India Insurance Co. Ltd. and ex parte against the O.P. No.1/The owner of the

offending vehicle but without any order as to costs.

The petitioners do get an award of Rs.12,28,500/- along with interest @ 8% p.a. from date of filing of the instant application till realization from the O.P. No.2/United India Insurance Co. Ltd.

The O.P. No.2/The United India Insurance Co. is directed to pay the awarded amount along with interest by issuing three A/C Payee Cheques in the name of the petitioners in the manner mentioned here in below:

- 1. A/C Payee cheque of Rs.4,09,500/- along with above mentioned interest in the name of petitioner No.1 Md. Abaid Equbal the brother of the deceased.*
- 2. A/C payee cheque of Rs.4,09,500/- along with above mentioned interest in the name of petitioner No.2 Sohail Equbal the brother of the deceased.*
- 3. A/C payee cheque of Rs.4,09,500/- along with above mentioned interest in the name of petitioner No.3 Soharat Parvin the sister of the deceased.*

The O.P./Insurance Co is further directed to issue aforesaid cheques within Forty five (45) days from the date of receipt of this order, failing which the awarded amount shall carry further interest @ 8% p.a. from the date of this order till realization of the awarded amount".

6. The appellants/claimants being aggrieved by the judgment and award passed by the learned Trial Judge has come up with the instant appeal.
7. Learned advocate for the appellants submits that the learned Trial Judge erred in considering the income of the victim as Rs.12,000/- although the claimants filed the Income Tax Return which was submitted by the victim.
8. Learned advocate further submits that the learned Trial Judge erred in not considering the future prospect of the victim. It is also submitted by the learned advocate that the compensation awarded by the learned Trial Judge should be enhanced.
9. Learned advocate appearing for the respondent United India Insurance Co. Ltd. disputes the submission of the learned advocate for the appellants.
10. With regard to the submission of the learned advocate for the appellants that the learned Trial Judge did not take into consideration the Income Tax Return and simply proceeded on the ground that the income of the victim should be Rs.12,000/-.
11. It appears from the order of the learned Trial Court that the learned Trial Court did not accept the Income Tax Return of the victim relied upon by the claimants simply on the ground that the

nature of business is not disclosed. It is well settled in different judicial pronouncement that Income Tax Return is an authentic document on which the Court and Tribunal dealing with motor accident claim cases can rely to ascertain the income of the victim. As the officer of the Income Tax Department has deposed in this case and it is found that the Income Tax Return are genuine there is no scope for the Court to ignore the said Income Tax Return and to consider the notional income of Rs.12,000/-. Thus, the income of the victim should be considered as Rs.1,58,584/- p.a.

12. In the event the income is considered as Rs.1,58,584/- 40% future prospect being added the total income comes to Rs. 2,22,017.6P. 50% should be deducted on account of personal expenses which is Rs.1,11,008.8P and the annual dependency loss comes to Rs.1,11,008.8 P. The multiplier of 16 applied the total dependency loss comes to Rs.17,76,140.8 P. Further on account of general damages the claimants are entitled to Rs.36,000/-. Thus Rs.18,12,140/- is the total compensation which comes by arithmetical calculation. However, this Court is of the view that compensation of Rs.18,00,000/- is just and reasonable.

13. Hence this appeal FMA 4623 of 2016 stands disposed of. The judgment and award dated 16th May, 2015 passed by learned Additional District Judge, Fast Track Court, Asansol, Paschim Bardhaman, in MAC Case No. 09 of 2013 stands modified to the extent that the appellants claimants are entitled to Rs.12,00,000/- from the respondent No. 1 United India Insurance Company Ltd. The respondent No. 1 United India Insurance Company Ltd. shall deposit before the learned Registrar General, High Court, Calcutta Rs.18,00,000/- along with interest @ 6% per annum from the date of filing claim case till today. Such deposit shall be made within eight weeks from the date of communication of this order. In the event compensation awarded by the learned Trial Court is already paid or deposited the balance amount of Rs.5,71,500/- along with interest @ 6% per annum from 31st July, 2020 till today be deposited by the respondent No. 1 United India Insurance Co.
14. The appellants claimants will be entitled to withdraw the compensation upon compliance of necessary formalities in equal shares.
15. The deficit Court fees be paid.
16. This appeal **FMA 4623 of 2016** stands disposed of.

17. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Biswaroop Chowdhury, J.)