

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT(MV) 7 of 2023

**Anima Maity & Anr.
Versus**

The National Insurance Company Ltd. & Anr.

For the Appellants	:	Mr. Amit Ranjan Roy
For the Respondent No.1/ Insurance co.	:	Mr. M.P. Chakraborty Ms. Ratnadipa Karmakar
Heard on	:	10.04.2025
Judgment on	:	28 th July, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against judgment and award dated 8th April, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, cum Additional District Judge, Fast Track, Court-II, Tamluk Purba Medinipur in M.A.C. Case No. 12 of 2018/436 of 2018.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 04.08.2016 at about 9.30 A.M. with the involvement of the offending vehicle being a Lorry bearing registration No.WB-29/8153 proceeding at an excessive speed rashly and negligently losing control dashed the by-cycle driven by the victim who received severe injuries and was declared brought dead at District Hospital Purba Medinipur at Tamluk.
4. Learned Advocate representing the appellants/claimants submitted that the learned tribunal granted compensation on the basis of monthly income of Rs. 5000/- instead of Rs. 6000/- as claimed in the claim application and sought for enhancement.
5. The learned Advocate representing the respondent No.1/Insurance Company submitted that in absence of oral and documentary evidence the learned Tribunal had rightly granted compensation considering the monthly income of the victim to be Rs. 5000/-.
6. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the respondent No.1/insurance company, this Court

restricts itself only to the extent of issues agitated by the respective parties.

7. The evidence of the wife of the victim being P.W.1 on an affidavit revealed the victim to have earned sum of Rs. 6000/- per month working as a newspaper vendor. It could not have been possible for a person engaged in supplying newspaper in different houses procured the same from the local distributors to produce or to endorse his monthly income through any proper document. Considering the facts and circumstances of the case and the fiscal index prevalent at the relevant time of the accident the sum of Rs. 6000/- per month to have been earned by the victim would not be improbable.
8. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.² The impugned award of Rs. 5,96,000/- is modified as follows:

1 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Monthly Income	Rs. 6000/-
Annual income	x 12
	Rs. 72,000/-
1/3 rd Personal Expenses	Rs. 24,000/-
	Rs. 48,000/-
Future Prospect to be added(10%)	Rs. 4800/-
	Rs. 52,800/-
Multiplier to be “11”	X 11
	Rs. 5,80,800/-
General Damages (Rs. 70,000 x 30%)	Rs. 91,000/-
	Rs. 6,71,800/-
Less	Rs. 5,96,000/-
Entitlement	Rs. 75,800/-

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 5,96,000/- The appellants/claimants are entitled to a sum of Rs. 75,800/- along with interest at the rate of 6%per annum to be paid from the date of filing of the claim application i.e. 14.09.2016 till the date of realization. In view of the observation of the Hon'ble Supreme Court in **Parminder Singh Vs. Honey Goyal & Ors.**³ the appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.
10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 75,800/- along with

³ 2025 INSC 361

interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within two months from the date of passing of this order.

11. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same directly to the bank accounts of the present appellants/claimants as mentioned in the impugned judgment and order passed by the learned Judge, Motor Accident Claims Tribunal, cum Additional District Judge, Fast Track, Court-II, Tamluk Purba Medinipur in M.A.C. Case No. 12 of 2018/436 of 2018 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees.
12. The instant appeal is disposed of accordingly.
13. The pending applications, if any, stands disposed of.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)