

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 228 of 2011

Sujata Mandal & Ors.

v.

The New India Assurance Co. Ltd. & Anr.

Mr. Krishanu Banik

Mr. Tathagata Banik ... for the appellants/claimants.

Mr. Sanjay Paul ... for the respondent no.1/insurance company.

Heard & Judgment on: 24.10.2025

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been preferred by the appellants against the dismissal of the MAC Case No. 335 of 2007 vide order dated 6th January, 2010 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 3rd Court, Malda.
3. The Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal had erroneously dismissed the aforesaid claim case without proper assessment of the evidence on record based on the observation that a person boarding commercial vehicle loaded with goods was not entitled to any compensation. The

Learned Advocate representing the appellants/claimants further relied on the following decisions of the Hon'ble Supreme Court of India in the cases National Insurance co. Ltd. Vs. Chella Bharathamma & Ors.¹, Dhanraj Vs. New India Assurance Co. Ltd. & Anr.² and United India Insurance Co. Ltd. Vs. Suresh K.K. & Anr.³ on the basis of which he further contended that the respondent No.1/insurance company was liable to pay the compensation to the third party if at all being gratuitous or non-gratuitous passenger and thereafter recover the same from the owner of the offending vehicle.

4. The Learned Advocate representing the respondent No.1/insurance company controverted the submission of the Learned Advocate representing the appellants/claimants stating that the Learned Tribunal had rightly dismissed the claim application since the victim was a passenger of a commercial vehicle without the liability on the part of the respondent insurance company to pay the compensation.
5. Considered the rival contentions of the respective parties.
6. In view of the aforesaid observation the respondent No.1/insurance company is liable to pay the compensation to the appellants and thereafter recover the same from the owner of the offending vehicle.

¹ 2004 ACJ 2024

² AIR 2004 (SC) 4767

³ AIR 2008 SC 2871

7. The appellants/claimants further submitted her husband to have earned a sum of Rs. 2000/- to 2500/- per month selling bananas in the instant case the driver of the offending vehicle No.WB65/3929 expired and FRT was filed considering the monthly income of the victim to be Rs. 2000/-.

Monthly Income	Rs. 2000/-
Annual Income	X 12
	Rs. 24000/-
Future prospect 40%	Rs. 9600/-

	Rs. 33,600/-
1/4 th Deduction	Rs. 25,200/-
Multiplier to be "16"	X 16
	Rs. 4,03,200/-
Non pecuniary damages	Rs. 84,000/-
	Rs. 4,87,200/-

8. The appellants/claimants are entitled to a sum of Rs. 4,87,200/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its actual realization. In view of the observation of the **Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.**⁴ 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.

⁴ 2025 INSC 361

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 4,87,200/- along with 6 % per cent interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within 10 weeks from the date of passing of this order.
10. On receipt of the said amount, 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 in MAC Case No. 335 of 2007 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.
11. The instant appeal is disposed of accordingly.
12. The pending applications if any stands disposed of.
13. The TCR be sent down to the concerned Tribunal forthwith.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. Ar. Ct.