

Form No. J (2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay.

F.M.A. 1048 of 2023

National Insurance Co. Ltd.

Vs.

Anirban Giri & Anr.

With

COT/46/2025

Anirban Giri

-Vs.-

National Insurance Co. Ltd. & Anr.

For the Appellant/Insurance Company : Mr. Sanjay Paul

For the Claimant/Respondents : Mr. Ashique Mondal

Heard & Judgment on : 15.07.2025

Ananya Bandyopadhyay, J.:-

1. The Learned Advocates representing the appellant/insurance company as well as respondents /claimants are present in Court.
2. The instant appeal had been filed against the judgment dated 17th August, 2022 passed by the Learned Additional District

Judge, Motor Accident Claims Tribunal, Fast Tract, 1st Court, Tamluk, Purba Medinipur in MAC Case No. 608 of 2015.

3. An application under Section 166 of the M.V. Act had been filed by the claimant on account of the death of the victim in an accident which occurred on 26th May, 2015 at about 7.30 A.M. on NH-41 at Uttar Narikelda under Tamluk Police Station. The victim had been a passenger of the offending vehicle bearing registration no. WB-29A/8302. The offending vehicle carrying approximately 62 passengers lost control over speed and eventually capsized besides the road wherein six of such passengers expired and 56 were injured.
4. The Learned Advocate representing the appellant/insurance company submitted the Learned Tribunal to have considered a sum of Rs.2,04,000/- towards medical expenditure instead of Rs.1,93,459/- which had been the amount incurred as expenditure through the medical bills. It was further submitted that the disability certificate marked as Exhibit -6 mentioned 40% disability with further review after five years. It was further pointed out that P.W.2 in his deposition before the Learned Tribunal stated that after a lapse of five years, he did not medically examine the victim to reassess any progression of the deceased or his current status.

5. The Learned Advocate representing the respondents/claimants submitted to have filed a cross objection being COT 46 of 2025 which, inter alia, stated that the Learned Tribunal had erroneously deducted 1/3rd of the yearly income towards personal expenditure in a case where the victim was alive being injured.
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 appellant/insurance company this Court restricts itself only to the extent of the above-mentioned issues.
7. Heard the rival contentions of the Learned Advocates representing the respective parties.
8. It appeared that the victim had spent a sum of Rs.1,93,459/- towards medical expenditure in support of which medical bills had been placed before the Learned Tribunal which were marked as Exhibits – 8, 9 and 10. The Learned Tribunal in considering the claim application filed by the victim/claimant being alive should not have deducted 1/3rd of his income towards personal expenditure.
9. This Court has not inclined to interfere with the notional income considered by the Learned Tribunal, however, the impugned judgment and order is modified to the following extent.

Monthly Income	Rs.5,000/-
Yearly Income	Rs.60,000/-
Add: Future prospect 40%	Rs.24,000/-
Multiplier	Rs.84,000/-
	X 17
	Rs.14,28,000/-
Disability 40%	Rs.5,71,200/-
Add: Medical expenses	Rs.1,93,459/-
	Rs.7,64,659/-
Add: Non-pecuniary damages	Rs. 27,000/-
Total	Rs.7,91,659/-

10. The Learned Advocate representing the appellant/insurance company submitted to have deposited the compensation awarded along with interest from the date of filing of the application under Section 166 of the M.V. Act till the date of its realization.
11. The Learned Advocate for the respondents/claimants is to withdraw the same from the office of the Learned Registrar General, High Court at Calcutta and inform the office of the appellant/insurance company to deposit the balance amount along with interest at the rate of 6% per annum from the date of filing of the application under 166 of the M.V. Act till the date of its realization within a period of three months from the date of passing of this order.
12. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the entire awarded amount so deposited with accrued interest directly to

the Bank accounts of the respondents/claimants in equal proportion as mentioned in the award passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Tamluk, Purba Medinipur in M.A.C. Case No. 608/2015 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court's fees. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their Bank accounts with relevant documentary proof, prior to such disbursal as aforesaid..

13. The instant appeal is disposed of accordingly.
14. The pending applications, if any, stands disposed of.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

Srimanta, A.R.(Ct.)