

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 76 of 2006

**Biswajit Mukherjee
Versus**

The National Insurance Company Ltd. & Anr.

For the Appellant : Mr. Rabindranath Mahato
Mr. Aritra Shankar Roy

For the Respondent No.1/
Insurance co. : Mr. Rajesh Singh

Heard & Judgment on : 14th 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 the judgment and award dated 28th April, 2004 passed by the learned Judge, Motor Accident Claims Tribunal cum learned Additional District Judge, 5th Court, Midnapore in M.A.C. Case No. 1100 of 2002.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the injured victim who suffered physical disablement to the extent of 60% in an accident which occurred on 16.08.2001 at about 8.30 P. M. at Pilgrim Road near Mantur Hotel within the jurisdiction of Kotwali Police Station with the involvement of the offending vehicle

being a truck bearing registration No. WGB-5587 which approaching at an exceeding speed rashly and negligently collided with his rickshaw resulting in the accident whereby the victim received severe injuries and had to be hospitalized.

4. Learned Advocate representing the appellant/claimant submitted the learned tribunal to have erroneously assessed the yearly income of the victim to be Rs. 15,000/- instead of the claim of the victim to have earned a sum of Rs. 3000/- per month as stated in his evidence. Moreover, since the victim was aged about 40 years at the relevant point of time of the accident, the multiplier must be considered as 12 instead of 15.
5. The learned Advocate representing the respondent No.1/Insurance Company submitted in absence of oral and documentary evidence to support the claim of the victim to have earned Rs. 3000/- per month, the learned tribunal was justified in assessing the compensation awarded.
6. Considered the rival contentions of the Learned Advocates representing the respective parties.
7. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to consider the point agitated by both the parties. The victim suffered physical disablement to the extent of 60%. He had been hospitalized for a

continuing period of four and half months with shortening of his left leg. It is not possible for a rickshaw puller to substantiate his monthly income through documents. However, in the year 2001 it could not be improbable for a rickshaw puller to earn Rs. 100/- per day. The compensation awarded by the learned tribunal is modified to the following extent.

Monthly Income	Rs. 3000/-
Annual Income(Rs. 3000x 12)	Rs. 36,000/-
Multiplier to be "15"	X 15
	Rs. 5,40,000/-
Disability 60%	Rs. 3,24,000/-
Medical Expenses	Rs. 5000/-
Damage & rickshaw	Rs. 5000/-
Pain & Suffering	Rs. 5000/-
	Rs. 3,39,0000/-
Less Award	Rs. 1,13,000/-
Entitlement	Rs. 2,26,000/-

8. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant withdrawn a sum of Rs. 1,13,000/-. The appellant/claimant entitled to a sum of Rs. 2,26,000/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application till the date of final realization. In view of the observation of the Hon'ble Supreme Court in **Parminder Singh Vs. Honey Goyal & Ors.**¹ 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.

¹ 2025 INSC 361

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 2,26,000/- along with interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within 12 weeks from the date of passing of this order.
10. 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 appellant/claimant as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum learned Additional District Judge, 5th Court, Midnapore in M.A.C. Case No. 1100 of 2002 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court's 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.