

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 574 of 2020

Salman Sk. @ Sekh & Ors.

Versus

The New India Assurance Company Ltd. & Anr.

For the Appellants/claimants : Mr. Jayanta Kumar Mandal.

For the Respondents/Insurance Company : Ms. Sayanti Santra.

Heard & Judgment on : 28th August, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellants/claimants and the respondents/Insurance Company are present in Court.
2. The instant appeal had been filed against the judgment and award dated 14.08.2019 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court, Rampurhat, District - Birbhum in M.A.C. Case No. 35 of 2015.

3. The Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal since the same had been dismissed by the Learned Tribunal on the ground that the appellants/claimants had failed to establish that the victim died out of the effect of the accident.
4. The Learned Advocate representing the respondents/Insurance Company submitted that the driver of the offending vehicle at the relevant date and time of the accident did not possess a valid driving licence and the accident occurred due to the fault of the driver of the offending vehicle whereby the respondents/Insurance Company should not be liable for granting compensation. Accordingly, the Learned Tribunal was justified in dismissing the claim application filed under Section 166 of the Motor Vehicles Act.
5. Considered the rival contentions of the Learned Advocates representing the respective parties.
6. The document being the charge-sheet marked as Annexure – 4 described the identity of the offending vehicle as per the seizure list and the relevant documents with regard to the R.C. Book, Tax Token, Insurance Certificate etc. Prima facie, investigation revealed the accident to have occurred on 31.05.2015 at about 21:30 hours whereby the victim was dashed by the offending vehicle and was admitted to Rampurhat S. D. Hospital for

treatment on 01.06.2015 at about 1:00 hours. Subsequently, the victim expired. The statements recorded under Section 161 of the Code of Criminal Procedure along with the seizure list of the offending vehicle, arrest of the accused driver on 23.06.2015 endorsed the occurrence of the accident. The document marked as Exhibit – 5 being the Post-Mortem Report mentioned the injury sustained by the victim. However, the reason of sustaining such injuries has not been mentioned in the Post-Mortem Report. However, the contentions of the eye-witness being P.W. 3 who had also been a charge-sheeted witness with regard to the mode and manner of the occurrence of the accident cannot be denied. Based on the observation of the Doctor conducting the Post-Mortem Examination in the Post-Mortem Report which did not reflect the cause of the accident which at all materials time should not have been known to the Doctor performing the Post-Mortem Examination cannot be sacrosanct and undeniable to the prejudice of the appellants/claimants. The claimants are entitled to compensation in accordance with law. The P.W.1 being the son of the victim stated the victim to have been a carpenter earning a sum of Rs.7,300/- per month. Considering the fiscal index prevalent at the relevant point of time a sum of Rs.6,000/- per month to have been earned by the victim as a carpenter would not be improbable.

7. 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 Judgment is modified as follows:

Annual Income	Rs. 72,000/-
Add : Future Prospect (25%)	Rs. 18,000/-
Less: 1/4 th Personal Expenses	Rs. 90,000/-
	Rs. 22,500/-
Multiplier to be "13"	Rs. 67,500/-
	X 13
Add : Conventional Head	Rs. 8,77,500/-
[70,000+20%]	Rs. 84,000/-
	Rs. 9,61,500/-

8. The appellants/claimants are entitled to receive the sum of Rs.9,61,500/- along with 6% interest per annum to be paid from the date of filing of the claim application, i.e. 28.09.2015 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.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 disbursement of the compensation amount.

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

² (2009) 6 SC 121

³ 2025 1 NSC 361

9. The Learned Advocate representing the respondent/Insurance Company is to deposit the balance sum of Rs.9,61,500/- along with at the rate of 6% interest per annum from the date of filing of the claim application, i.e. 28.09.2015 before the office of the Learned Registrar General, High Court, Calcutta within two months from the date of passing of this order.
10. The Office of the Learned Registrar General, High Court at Calcutta, shall encash the cheques and thereafter disburse the same directly to the Bank accounts of the appellants/claimants in equal proportion as mentioned in the impugned judgment of the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court, Rampurhat, District – Birbhum in M.A.C. Case No. 35 of 2015 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court 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.)

Srimanta, A.R.(Ct.)