

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

IA No.:CAN/1/2018 (Old No.:CAN/6311/2018)

in

FMA 582 of 2018

Marjina Khatun & Ors.

Versus

The United India Insurance Company Limited & Anr.

For the appellants/claimants. : Mr. Saidur Rahaman

For the respondent nos. 1 : Mr. Sanjay Paul

Heard & Judgment on : 10th 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 18.01.2017 passed by the Learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, 5th Court, Malda in M.A.C. Case No. 106/2015.
3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed by the claimants on account of the death of the victim in an accident which occurred on 11.02.2015 at about

08:00 p.m. at Azad More West near Khanpur village under the Police Station Chanchal in the District of Malda with the involvement of the offending vehicle being a tractor bearing registration No. WB-59/9571 whereby the victim on his way to the farm was hit by the tractor rashly and negligently from behind resulting in the victim to have sustained serious injuries and succumbed to the same on the spot.

4. The Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal considered the monthly income of the victim to be Rs.3,000/- per month which was meager and sought for an enhancement of the same. He further submitted that the component of future prospect was not considered.
5. The Learned Advocate representing the respondents/Insurance Company submitted that the Learned Tribunal after assessing the oral and documentary evidence rightly computed the compensation awarded and this Court should not interfere with the same.
6. Since the occurrence of the accident, insurance policy, the driving licence, route permit etc. and other ancillary issues are not disputed by the Learned advocate representing the respondent

No.1/insurance company, this Court restricts itself only to the extent of determine the above-mentioned issues.

7. Considered the rival contention of the respective parties. It is not possible for the victim working on the field to produce documentary evidence with regard to his income. However, considering the fiscal index prevalent in the year 2015, the monthly income of the victim is raised to Rs.5,000/-.
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. 4,37,000/- is modified as follows:

Monthly Income	Rs. 5000/-
Annual Income	Rs. 60,000/-
Future Prospect to be added(40%)	Rs. 24,000/-
	Rs. 84,000/-
1/4 th Deduction of Personal Expenses	Rs. 21,000/-
	Rs. 63,000/-
Multiplier to be "16"	X 16
	Rs. 10,08,000/-
General Damages	Rs. 84,000/-
	Rs. 10,92,000/-
Less : already paid	Rs. 4,37,000/-
Entitlement	Rs. 6,55,000/-

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

² (2009) 6 SC 121

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 4,37,000/- . The appellants/claimants are entitled to a sum of Rs. 10,92,000/- along with 6% interest per annum to be paid from the date of filing of the 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.***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.
10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 6,55,000/- along with 6 % interest per annum from the date of filing of the claim application till the date of its actual realization before the office of the Learned Registrar General, High Court, 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 in equal proportion as mentioned in the award passed by the Learned Additional District & Sessions Judge, Motor Accident

Claims Tribunal, 5th Court, Malda in M.A.C. Case No. 106/2015 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.)

Srimanta, A.R.(Ct)