

District: North 24 Parganas

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Ananya Bandyopadhyay

FMA 400 of 2010

SMT. PHULVA DEVI & ANR.

VS.

ORIENTAL INSURANCE COMPANY LTD.

Mr. Krishanu Banik

... for the appellants

Mr. Parimal Kumar Pahari

... for the respondent/Insurance Co.

Heard on & Judgment on : 03.09.2025

Ananya Bandyopadhyay J.

1. The Learned Advocates representing both the parties are present in court.

2. The instant appeal had been filed against the judgement and order dated 06.12.2008 passed by the Learned Judge, Motor Accident Claims Tribunal, F.T.C No.2, Barasat, North 24 Parganas in MAC Case No.279 of 2007.

3. The Learned Advocates representing the appellants/claimants submitted to have filed the instant appeal on the ground that the Learned Tribunal had assessed the multiplier to be '5' instead of '7'

disregarding age of the victim to have been 61 years at the time of his death in the accident which occurred on 20th November, 2006.

4. The Learned Advocate representing the appellants/claimants further submitted the victim worked as a Sweeper in Salt Lake area and used to earn in between Rs.6,000/- to Rs.7,000/- per month. However, the Learned Tribunal had considered a consolidated sum of Rs.20,000/- to be the yearly income of the victim which was paltry. The compensation towards general damages was not properly addressed.

5. The Learned Advocate representing the respondent No.1 Insurance Company submitted that the Learned Tribunal had granted the entire amount of compensation taking into consideration all the relevant aspects based on the oral and documentary evidence and justifiably assessed the compensation awarded.

6. Since the occurrence of the accident, the driving license, the route permit etc. and other ancillary issues have not been disputed by the Learned Advocate representing the appellant/insurance company, this Court restricts itself only to consider the point agitated by both the parties.

7. The accident occurred in the year 2006 and the victim working as a Sweeper could have earned a sum of Rs.3,000/- per month which would not be improbable. The multiplier should have been considered to be '7' in accordance with the age of the victim to have been mentioned as 61 years in the voter identity card.

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. 73,670/- is modified as follows:

Monthly Income	Rs. 3000/-
Annual Income (Rs. 3000 x 12)	Rs. 36,000/-
1/3 rd Personal expenses	Rs. 12,000/-
	Rs. 24,000/-
Multiplier 7	X 7
	Rs.1,68,000/
General Damages	Rs. 84,000/-
	Rs.2,52,000/
Less	Rs. 73,000/-
Entitlement	
	Rs.1,78,330/

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 73,000/- The appellants/claimants are entitled to a sum of Rs. 1,78,625/- 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 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

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

³ 2025 INSC 361

General, High Court at Calcutta for disbursal of the compensation amount.

10. Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 1,78,330/- along with interest as aforesaid before the office of the Learned Registrar General High Court at 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 with accrued interest directly to the bank accounts of the present appellants/claimants as mentioned in the impugned judgment and order passed by the Learned Judge, Motor Accident Claims Tribunal, F.T.C No.2, Barasat, North 24 Parganas in MAC Case No.279 of 2007 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees within four weeks.
12. The instant appeal is disposed of accordingly.
13. The pending applications, if any, stands disposed of.
14. The TCR be sent down to the concerned Tribunal forthwith.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(**Ananya Bandyopadhyay, J.**)