

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/2/2017(Old No.:CAN/5310/2017)
in
FMA 795 of 2013**

**Anita Saha
Versus
The Divisional Manager,
National Insurance Company Limited & Ors.**

For the Appellant/Insurance
Company

: Mr. Saidur Rahaman

For the Respondents/Claimants

: Mr. Parimal Kumar Pahari,
Mr. Arabinda Kundu

Heard & Judgment on

: 2nd September, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court today.
2. The instant appeal had been preferred against the impugned judgment and order dated 23.02.2012 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, 2nd Court, Raiganj, Uttar Dinajpur in M.A.C. Case No. 193 of 2003.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimant on account of the death of the victim in an accident which occurred on 27.01.2001 at about 7:00 P.M. at Tetultala on NH-34 which is 8 K.M. north-west from the jurisdiction of Raiganj Police Station with the involvement of the offending vehicles being a truck and a trekker bearing registration no. Wb-73/4137 and WB-59/3183 respectively. The victim being a passenger of the trekker was hit by the truck which approached at an exceeding speed rashly and negligently on the wrong side of the road as a result of which several passengers of the trekker suffered severe injuries and the victim instantaneously died on the spot.
4. The Learned Advocate representing the appellant/claimant submitted that the Tribunal considered the multiplier to be '15' instead of '18' considering the age of the victim to be 23 years on the date of the accident. It was further submitted that the Tribunal did not consider the monthly income of the victim to be Rs.3,000/- as claimed to have been earned by him through imparting private tuitions and had considered the monthly income to be Rs.2,000/-. It was further submitted that the compensation under the head of future prospect was not granted. The personal expenditure should not have been deducted to the extent of 1/3rd but to 50% since the victim had expired as a bachelor.

5. The Learned Advocates appearing on behalf of the respondents/Insurance Companies unanimously submitted that the Tribunal was justified in assessing the monthly income of the victim to be Rs.2,000/- since the claimant failed to adduce evidence to the extent of the same to have been Rs.3,000/-.
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 respondents/Insurance Company, this Court restrict itself only to the extent of determine the above-mentioned issues.
7. Considered the rival contentions of the Learned Advocates representing the respective parties.
8. The Tribunal in assessing the multiplier with regard to the age of the victim should have considered the same to be '18' instead of '15' since the victim was 23 years of age on the date of the accident resulting in his death. The victim evidently died as a bachelor and the expenditure towards personal expenses should have been deducted to the extent of 50% instead of $\frac{1}{3}^{\text{rd}}$. The Tribunal, however, in absence of corroborative evidence assessed the monthly income of the victim to be Rs.2,000/- which is not interfered with.

9. 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. 2,44,500/- is modified as follows:

Annual Income	Rs. 24,000/-
Add : 40% Future Prospect	Rs. 9,600/-
	Rs. 33,600/-
Personal Expenses (50%)	Rs. 16,800/-
Multiplier to be "18"	X 18
	Rs. 3,02,400/-
Add : General Damages	Rs. 36,000/-
	Rs. 3,38,400/-
Total	Rs. 3,38,400/-
Less : Award	Rs. 2,44,500/-
Entitlement	Rs. 93,900/-

10. The Learned Tribunal had awarded the compensation to the claimant of Rs. 2,44,500/-. The appellant/claimant are entitled to a sum of Rs. 3,38,400/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs.2,44,500/-.

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

² (2009) 6 SC 121

11. In view of the observation of the Hon'ble Supreme Court in *Parminder Singh -Vs.- Honey Goyal & Ors.*³ the appellant/claimant is to provide the details of Bank account held in the name of the appellant/claimant at the Office of the Learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.
12. The Learned Advocate for the respondents/insurance company is to deposit the balance sum of Rs. 93,900/- along with 6% per cent interest per annum from the date of filing of the claim application before the office of the Learned Registrar General, High Court Calcutta within eight weeks from the date of passing of this order.
13. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest to the Bank accounts of the appellant/claimant as mentioned in the impugned judgment of the Learned Additional District Judge, Motor Accident Claims Tribunal, 2nd Court, Raiganj, Uttar Dinajpur in M.A.C. Case No. 193 of 2003 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court fees.
14. The instant appeal is disposed of accordingly.

³ 2025INSC 361

15. The pending applications, if any, stands disposed of.
16. The TCR be sent down to the concerned Tribunal forthwith.
17. 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.)