

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 365 of 2022

**Kabita Ahdikari alias Adhikary & Anr.
Versus
The Oriental Insurance Company Limited & Anr.**

For the Appellant : Mr. Jayanta Kumar Mandal,
Mr. Sayantan Rakshit

For the Respondents : Mr. Sanjay Paul

Heard & Judgment on : 25th August, 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 24th August, 2021 passed by the Learned Judge, Motor Accident Claims Tribunal, ADJ, FTC-II at Tamluk in M.A.C. Case No. 6 of 2017 under Section 166 of the Motor Vehicles Act.
3. An application under Section 166 of the MV Act had been filed by the claimants on account of the death of the son in an accident

which occurred on 20.07.2014 between 4.30 pm – 5 pm on Chandrakona road, near Dakshinsole within the jurisdiction of the Garhbeta Police Station, District: Paschim Medinipur with the involvement of the offending vehicle being a Mahinda Maxximo bearing registration No.WB-33B/2368 which approaching at an excessive speed, rashly and negligently dashed the victim who was a pedestrian on the concrete portion of the aforesaid Chandrakona lane, as a result of such collision, the victim suffered severe injuries and was declared brought dead at Chandrakona hospital.

4. The Learned Advocate representing the appellants/claimants submitted to have filed instant appeal exclusively on the ground that the Learned Tribunal considered the monthly income of the victim to be Rs.3000/- disregarding the fact that the victim had completed his course in Diploma Engineering and obtained the final mark-sheet concerning the same. The deceased/victim had also qualified the Joint Entrance Examination securing a rank which could have enabled him to pursue the degree course in the concerned stream as mentioned in the said certificate issued by the West Bengal Joint Entrance Examination Board.
5. The Learned Advocate representing the respondent No.1/Insurance Company submitted that the victim was a bachelor and did not exercise any independent avocation to claim

his monthly income and as such the Learned Tribunal in absence of corroborative oral as well as documentary evidence had considered the monthly income to be Rs.3,000/- which should not be interfered with.

6. Considered the rival contentions of the respective parties.
7. 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 appellants/claimants, this Court restrict itself only to the extent of determine the above-mentioned issues.
8. The document marked as Exhibit.8 series as well as Exhibit.12 reflected the victim to have been a student of Diploma Engineering. The victim had successfully completed his course in the Diploma Engineering and had also being granted a certificate issued by the West Bengal Joint Entrance Examination Board stating his rank to have been eligible to pursue his course in Electrical Engineering secured his rank in position no.1125.
9. Considering the acumen, ability and the future prospect of the victim so deceased, the Learned Tribunal did consider Rs.3,000/- per month to be the sparse and modicum. This Court, therefore, inclined to increase the monthly income of the victim to the extent of Rs.10,000/-.

10. 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. 4,83,600/- is modified as follows:

Monthly Income	Rs. 10,000/-
Annual Income (Rs. 10,000 x 12)	Rs. 1,20,000/-
Future Prospect to be added(40%)	Rs. 48,000/-
Deduction towards personal expenses	Rs. 1,68,000/-
50%	Rs. 84,000/-
	Rs. 84,000/-
Multiplier to be "18"	X 18
	Rs.15,12,000/-
General Damages	Rs. 33,000/-
	Rs.15,45,000/-
Less Award	Rs. 4,83,600/-
Entitlement	Rs.10,61,400/-

11. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 4,83,600/- The appellants/claimants are entitled to a sum of Rs. 10,61,400/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application i.e. 19.02.20215 till the date of its realization.
12. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 10,61,400/- along with interest as aforesaid before the office of the learned Registrar

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

² (2009) 6 SC 121

General High Court at Calcutta within four weeks from the date of passing of this order.

13. 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 disbursal of the compensation amount.
14. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same to the present appellants/claimants as mentioned in the impugned judgment and award passed by the Learned Judge, Motor Accident Claims Tribunal, ADJ, FTC-II at Tamluk in M.A.C. Case No. 6 of 2017 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees.
15. The instant appeal is disposed of accordingly.
16. The pending applications, if any, stands disposed of.
17. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

³ 2025 INSC 361