

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/2/2015 (Old No.:CAN/11713/2015),
CAN/4/2018 (Old No.:CAN/5662/2018)**

in

FMA 1248 of 2016

The New India Assurance Company Limited

Versus

Chhya Rani Maity & Ors.

With

COT/62/2015

Chhya Rani Maity & Ors.

Versus

The New India Assurance Company Limited & Anr.

For the appellant/Insurance Company : Mr. P. K. Pahari

For the respondents/claimants : Mr. Krishanu Banik,
Mr. Tathagata Banik

Heard & Judgment on : 7th 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 30.06.2015 passed by the Learned Additional District

& Sessions Judge, Motor Accident Claims Tribunal, 2nd Court, Tamruk, Purba Medinipur in M.A.C. Case No. 63 of 2014.

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 08.10.2013 at about 07.05 P.M. near Malanchaberia within the jurisdiction of Uluberia Police Station in the District of Howrah with the involvement of the offending vehicle, i.e, oil tanker bearing registration no. AP 31X-8338 which collided with a maruti alto bearing registration no. WB-30H/9580 wherein the victim was a passenger who was thereafter shifted to Fuleshwar Sanjiban Hospital at Howrah being treated till 24.10.2013 and expired eventually.
4. The Learned Advocate representing the appellant/Insurance Company submitted that the Maruti Alto being the other vehicle which collided with oil tanker was responsible to cause the accident and accordingly the Appellant/Insurance Company should be exonerated without any fault in causing the accident. He further submitted that the victim earned a sum of Rs.8,94,200/- working as a Public Prosecutor in the District Court of Purba Medinipur as per the information received from the office of the District Magistrate through RTI which had been marked exhibit – A. However, the Learned Tribunal disregarding the said

document marked exhibit – A had considered the monthly income of the victim to be Rs. 1,00,000/-.

5. The Learned Advocate representing the respondents/claimants submitted to have filed a cross-objection claiming that the Learned Tribunal had erroneously not granted the compensation towards the component of general damages, the monthly income of the victim to have been considered Rs.1,50,000/- as well as medical expenses were inadequate to the extent of Rs.2,00,000/- . The medical expenses to the extent of Rs.2,00,000/- as proved by the claimants had been granted by the Learned Tribunal which need not be interfered with.
6. Since the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the Learned advocates representing the appellant/insurance company, this Court restricts itself only to the extent agitated by the Learned Advocates representing both the parties.
7. The charge-sheet marked as Exhibit-2 revealed the driver of the oil tanker bearing registration no. AP 31X-8338 to have been, prima facie, liable for occasioning the accident and such observation could not be ruled out. The document marked as Exhibit-A obtained from the concerned authority is considered by

this Court to be the monthly income of the victim after deduction of the amount towards TDS as mentioned therein.

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. 42,02,000/- is modified as follows:

Monthly Income	Rs. 1,47,475/-
Annual Income	Rs. 8,04,780/-
1/4 th Deduction for personal living expenses(Rs.8,04,780-Rs.2,01,195)	Rs. 6,03,585/-
Multiplier '5'(6,03,585X5)	Rs. 30,17,925/-
Medical Expenses	Rs. 2,00,000/-
General Damages	Rs. 84,000/-
Total	Rs. 33,01,925/-
Amount withdrawn	Rs. 15,00,000/-
Entitlement	Rs. 18,01,925/-

9. The Learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.35,95,126/- as per challan filed by the Learned advocate representing the appellant/insurance company.
10. The Respondents/claimants are entitled to receive the amount of Rs. 33,01,925/- along with interest at the rate of 6% per

annum from the date of filing of the claim application till the date of actual realization.

11. The Learned Advocate for the respondents/claimants submitted that the respondents/claimants have withdrawn a sum of Rs. 15,00,000/-. The respondents/claimants are entitled to the balance sum of Rs.18,01,925/- along with interest at the rate of 6% per annum from the date of filing of the claim application till the date of actual realization.
12. 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 the accrued interest directly to the Bank accounts of the respondents/claimants as mentioned in the impugned judgment of the Learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, 2nd Court, Tamluk, Purba Medinipur in M.A.C. Case No. 63 of 2014 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount, if any, along with accrued interest through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company. The office

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

² (2009) 6 SC 121

of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

13. The instant appeal is disposed of accordingly.
14. The pending applications, if any, stands disposed of.
15. 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)