Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 568 of 2024

National Insurance Company Limited
Versus
Anima Haldar & Ors.

With

COT/60/2025

Anima Halda & Ors.
-Vs.-
National Insurance Company Limited & Anr.

For the Appellant	:	Mr. Afroz Alam
For the Respondent No.1 to 4	:	Mr. Jayanta Kumar Mondal Mr. Sayantan Rakshit
Heard & Judgment on	:	14th August, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent No.1 to 3/claimants are present in Court.

2. The instant appeal had been filed against the judgment and award dated 18th December, 2023 passed by the Learned Judge, Motor Accident Claims Tribunal cum 2nd Court, Kakdwip in M.A.C. Case No. 1 of 2019.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants owing to the death of the victim in an accident which occurred on August 18, 2018 within 11:40 to 12:00 hours near 5 no. Hat within the jurisdiction of P.S. H.P. Coastal, South 24 Parganas with the involvement of the offending vehicle being a bus bearing Registration No. WB. 15A/4696 which was approaching at an excessive speed rashly and negligently, clashed with the victim who subsequently sustained severe injuries and was transmitted to Kakdwip SD Hospital wherefrom he was transferred to Calcutta National Medical College and Hospitals wherein he succumbed to his injuries on August 18, 2018 at about 05:10 p.m.
4. The Learned advocate representing the appellant/insurance company submitted to have filed the instant appeal, being aggrieved by the decision of the Learned Tribunal in considering the last Income Tax Return wherein the income of the victim had been mentioned, however, without a date and the same to have been filed after the death of the victim. It was further submitted that the Learned Tribunal had granted a sum of Rs.1,00,000/-

towards loss of consortium which was not in accordance with the guidelines of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr .Moreover, the complaint was filed after the delay of 11 days from the date of the accident.

5. The Learned Advocate representing the respondent Nos. 1 to 3/claimants submitted that the Learned Tribunal in assessing the amount of compensation did not consider the gross total income of the victim and did not grant any compensation towards the element of future prospect.

6. Since the occurrence of the accident, the driving license, the Insurance policy, 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 the extent of issues agitated by the learned Advocates representing the respective parties. The documents marked as Exhibit-2 series indicated the Last Income Tax return to have been filed pertaining to assessment year 2018-2019 which mentioned the same to have been filed on 30th August 2018. The accident occurred on August 18, 2018. Therefore, the entire year of the assessment corresponding to which the LTR was filed to consume the lifetime of the victim for that particular year, was not to be discarded. The Income Tax Return filed for the assessment year 2016-2017 mentioned the gross total income to be Rs.2,87,191/-

and the gross total income of the victim with regard to the assessment year 2018-2019 had been Rs.2,89,399/-. The victim dealt in business of jewellery, though the documents to that extent had not been placed before the Learned Tribunal. Nonetheless, the different criteria of income pertaining to the aforesaid years had not been excessive to indicate the same to have been fabricated or concocted. The Learned Tribunal should have granted the compensation towards the component of future prospect.

7. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr[1] and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.[2] The impugned award of Rs. 18,71,240/- is modified as follows:

Annual Income (As Per I. Tax Return 2018-19)	Rs. 2,89,399/-
Future Prospect to be added(40%)	Rs. 1,15,760/-
	Rs. 4,05,159/-
Personal Expenses (1/3)	Rs. 1,35,053/-
	Rs. 2,70,106/-
Multiplier to be "15"	X 15
	Rs. 40,51,590/-
General Damages	Rs. 84,000/-
Entitlement	Rs.41,35,590/

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

[2] (2009) 6 SC 121

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 24,05,386/=(Rs. 25,000 + 23,80,386) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company. The Learned Advocate representing the appellant/Insurance Company is directed to deposit the remaining balance amount before the office of the Learned Registrar General, High Court at Calcutta within six weeks.
9. The Learned Advocate representing the respondent Nos. 1 to 3/claimants are entitled to receive the amount of Rs. 41,35,590/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
10. 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 directly to the bank accounts of the present respondent Nos. 1 to 3/claimants in equal proportion as mentioned by Learned Judge, Motor Accident Claims Tribunal cum 2nd Court, Kakdwip in M.A.C. Case No. 1 of 2019 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees within four weeks. The office 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.

11. The instant appeal and cross objection are disposed of accordingly.

12. Pending applications, if any, stands disposed of.

13. The interim order if any stand vacated.

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.)

C.M. A.R.