Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 324 of 2025

Kakali Mahata & Anr.
Versus
Reliance General Insurance Company Ltd. & Anr.

For the Appellants	:	Mr. Amit Ranjan Roy
For the Respondent No.1/ Insurance co.	:	Ms. Gopa Das Mukherjee
Heard & Judgment on	:	10th 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 14th November, 2024 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 4th Court, Paschim Medinipur in M.A.C. Case No. 553 of 2018.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the appellants/claimants on account of the death of

the victim in an accident which occurred on 9th April, 2018 at about 6.30 A.M. near Dakshinsole Bus Stop within the jurisdiction of Salboni Police Station District Paschim Medinipur with the involvement of the offending vehicle being a truck bearing registration No. WB-23C/0121 which approached at an exceeding speed rashly and negligently clashed the motor cycle being driven by the victim through the concrete road of NH-60 whereby the victim sustained severe injuries and was transmitted to Mednipur Medical Collage and Hospital wherefrom he was referred to S.S.K.M. Kolkata. He was subsequently admitted at TRA General Hospital wherein he expired on 10th April, 2018.

4. Learned Advocate representing the appellants/claimants submitted that the learned tribunal erroneously did not consider the document i.e. last income tax return wherein the annual income of the victim for the assessment year 2017-18 had been mentioned.

5. The learned Advocate representing the respondent No.1/Insurance Company submitted that the learned tribunal considering oral and documentary evidence had justifiably computed the compensation amount and this Court should not interfere with the same.

6. Considered the rival contentions of the Learned Advocates representing the respective parties.
7. 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 respondent No.1/insurance company, this Court restricts itself only to consider the point agitated by both the parties. The document marked as Ext. 20 in accordance with the deposition of P.W.3 being the authorized person of the income tax office, I.T.O. Ward 38(1) of Income Tax Office, Sarat Pally Midnapur endorsed the annual income of the victim through certified true copy of the income tax return pertaining to the assessment year 2017-18. It was further submitted that the aforesaid document was maintained in the ITO in ordinary course of official business. The assessee had filed the income tax return on 31st March, 2018 which was processed on 4th January, 2019. The observation of the learned tribunal that the income tax return contain statement of self-declaration beyond the scope of income tax to verify the same with regard to its veracity and genuineness was not within the purview of the learned tribunal to either comment on or interfere with.

8. The Hon'ble Supreme Court held the following in **Anjali v. Lokendra Rathod**[1]**:**

"9.The Tribunal and the High Court both committed grave error while estimating the deceased's income by disregarding the Income Tax Return of the Deceased. The appellants had filed the Income Tax Return (2009-2010) of the deceased, which reflects the deceased's annual income to be Rs. 1,18,261/-, approx Rs. 9,855/- per month. This Court in Malarvizhi (supra) has reaffirmed that the Income Tax Return is a statutory document on which reliance be placed, where available, for computation of annual income. In Malarvizhi (Supra) this Court has laid as under:

10. We are in agreement with the High Court that the determination must proceed on the basis of the income tax return where available. The income tax return is a statutory document on which reliance may be placed to determine the annual income of the deceased".

11. In **K. Ramya v. National Insurance Co. Ltd.**[2] the following was held by the Hon'ble Supreme Court:

"14. In contrast, the High Court set aside the same on the ground that the income earned was out of capital assets and cannot be said to have been earned out of personal skills of the deceased. It consequently went on to determine the income of the deceased on a notional basis as per his educational equalification. Unfortunately, such an approach, in our opinion, is erroneous in view of the decisions of this court in Amrit Bhanu Shali v. National Insurance Co. Ltd. and Kalpanaraj v. Tamil Nadu State Transport Corpn. Wherein this court has held that documents such as income tax returns and audit reports are reliable evidence to determine the income of the deceased. Hence, we are obliged to modify the compensation, especially when neither any additional evidence has been produced to showcase that the income of the Deceased was contrary to the amount mentioned in the audit reports nor it is the stand taken by the Insurance Company that the said reports inflated the income".

*12. The Hon'ble Supreme Court held the following in **Kalpanaraj v. T.N. State Transport Corpn**[3]**:***

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[1] 2022 SCC Online SC 1683
[2] 2022 SCC 764
[3] (2015) 2 SCC 764

13. ***8.*** *"It is pertinent to note that the only available documentary evidence on record of the monthly income of the deceased is the income tax return filed by him with the Income Tax Department. The High Court was correct therefore, to determine the monthly income on the basis of the income tax return".*

14. The document marked as Ext. 20 being the income tax return filed by the assessment year 2017-18 mentioned only income of the victim to be Rs. 2,98,000/- whereas sum of Rs. 4800/- should be deducted towards the tax payable on the total income whereby the assessed annual income should be of Rs. 2,93,200/-. The victim expired as a Bachalor whereby the 50% of his annual income should be deducted towards personal expenses.

15. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr4 and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.5 The impugned award of Rs. 11,73,173/- is modified as follows:

Yearly Income	Rs.	2,98,000/-
Tax Paid	Rs.	4,800/-
	Rs.	2,93,200/-
Future Prospect to be added(40%)	Rs.	1,17,280/-
	Rs.	4,10,480/-
Multiplier to be "18"	X	18
	Rs.	73,88,640/-
Deduction 50%	Rs.	36,94,320/-
Medical Expenses	Rs.	88,973/-
	Rs.	37,83,203/-
General Damages	Rs.	33,000/-
	Rs.	38,16,293/-
Less Award	Rs.	11,73,173/-
Entitlement	Rs.	26,43,120/-

16. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 11,73,173/-. The appellants/claimants are entitled to a sum of Rs. 26,43,120/- 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 final realization. In view of the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.6 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.

17. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 26,43,120/- along with interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within two months from the date of passing of this order.

18. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants with accrued interest as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 4th Court,

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

[5] (2009) 6 SC 121

[6] 2025 INSC 361

Paschim Medinipur in M.A.C. Case No. 553 of 2018 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees.

19. The instant appeal is disposed of accordingly.

20. The pending applications if any stands disposed of.

21. 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. Court.