

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 381 of 2022

Sephali Saha & Ors.

Versus

The Oriental Insurance Company Ltd. & Anr.

For the Appellants : Mr. Saidur Rahaman

For the Respondent No.1/
Insurance co. : Mr. Sucharita Paul

Heard on & Judgment on : 23rd 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 17th January, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, Dakshin Dinajpur in M.A.C. Case No. 148 of 2015.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 09.01.2015 at about 21.30

hours in N.H-5, Saraichhaka near petrol pump with the involvement of the offending vehicle being Tata Indigo bearing registration OR-02/BN5336 which approached at an exceeding speed, rashly and negligently and the driver lost control over the said vehicle and overturned falling into a roadside ditch after clashing three persons on its way. The victim, being one of such persons expired sustaining injuries out of the said accident.

4. Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the ground that the Learned Tribunal had granted the compensation considering the monthly income of the victim to be Rs. 6000/- contrary to the claim of Rs. 10,000/- per month as mentioned in the claim application. Moreover, the Tribunal deducted 1/3rd towards the personal expenses instead of 1/4th disregarding the presence of the mother of the victim at the time of the accident who subsequently expired during the pendency of the claim application being decided by the Learned Tribunal.
5. The learned Advocate representing the respondent No.1/Insurance Company submitted that the Learned Tribunal after assessing the oral as well as documentary evidence had justifiably computed the compensation award which should not be interfered with by this Court.

6. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of issues agitated by the respective parties. The claimants did not prove that the victim earned Rs. 10,000/- per month through a business dealing in paper pulps. Certain bills being raised in the name of the deceased victim, the endorsement to that effect that the same were issued by genuine bills in favour of the victim could not be proved, nor there was any document brought on record to substantiate that the victim was dealing in any business through trade license etc. However, considering the fiscal index prevalent and the relevant time, the monthly income of the victim can be assessed to be Rs. 6,500/- which would not be improbable.
7. 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. 8,50,000/- is modified as follows:

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

² (2009) 6 SC 121

Monthly Income	Rs. 6,500/-
Add further prospect @ 25 %	+ Rs. 1,625/-
	<u>8,125/-</u>
Annual income	x 12
	<u>Rs. 97,500/-</u>
Future Prospect to be added(25%)	x 13
Multiplier '13'	
	<u>Rs. 12,67,500/-</u>
	<u>Rs. 3,16,875/-</u>
Less 1/4 th deduction for "personal expenses"	<u>Rs. 9,50,625/-</u>
	<u>+ Rs. 77,000/-</u>
Add general damages	<u>Rs. 10,27,625/-</u>
Less award received	<u>-Rs. 8,50,500/-</u>
Enhanced compensation	<u>Rs. 1,77,625/-</u>

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 8,50,500/- The appellants/claimants are entitled to a sum of Rs. 1,77,625/- 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 realization. The appellants/claimants are also entitled to an interest at the rate of 6% per annum on the tribunal award i.e. Rs.8,50,500/- from the date of filing of claim application till the date of deposit already made. In view of the observation of the Hon'ble Supreme Court in *Parminder Singh Vs. Honey Goyal & Ors.*³ the appellants /claimants is 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.

³ 2025 INSC 361

9. Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 1,77,625/- along with interest as aforesaid along with interest at the rate of 6% per annum on the Learned Tribunal award i.e. Rs.8,50,500/- from the date of filing of claim application till the date of deposit already made before the office of the learned Registrar General High Court at Calcutta within two months from the date of passing of this order.
10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same with accrued interest directly to the bank accounts of the present appellants/claimants as mentioned in the impugned judgment and order passed by the learned Judge, Motor Accident Claims Tribunal, Dakshin Dinajpur in M.A.C. Case No. 148 of 2015 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees within four weeks.
11. The instant appeal is disposed of accordingly.
12. The pending applications, if any, stands disposed of.
13. The TCR be sent down to the concerned Tribunal forthwith.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

