

Form No. J(2)

District: North 24 Parganas

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Ananya Bandyopadhyay

FMA 37 of 2021

KALPANA DAS & ANR.

VS.

**THE ORIENTAL INSURANCE COMPANY LTD. &
ANR.**

Mr. Saidur Rahaman

... for the appellants/claimants

Mr. Gopa Das Mukherjee

... for the respondent no.1/Insurance Co.

Heard on & Judgment on : 22.09.2025

Ananya Bandyopadhyay J.

1. The Learned Advocates representing both the parties are present in court.

2. The instant appeal had been filed against the judgement and order dated 17.06.2019 passed by the Learned Judge, Motor Accident Claims Tribunal, 3rd Court, Barasat, North 24-Parganas in MAC Case No.479 of 2000.

3. The Learned Advocates representing appellants/claimants submitted to have filed the instant appeal on the ground that on the death of the victim a 7 years old child in an accident which occurred

on 30.05.1999 near Kalupur within jurisdiction of Bangaon Police Station with the involvement of a Bus bearing registration No.WBS-4502 plying on road No.78A/E which approaching at an excessive speed, rashly and negligently clashed with a road side tree whereby the victim and other passenger of the said Bus were severely injured. The victim was transmitted to Bangaon S.D Hospital where he expired.

4. The Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal solely on the ground that the Learned Tribunal had considered the monthly income of the victim to be a notional amount of Rs.15,000/- contrary to claim in the claim application.

5. The Learned Advocate representing the respondent No.1/Insurance Company submitted that age of the victim was 3 ½ years as per the document marked as Exhibit-5 being the Post Mortem report contrary to the statement of the claimants in the claim application to be 7 years. Accordingly, the Learned Tribunal was justified in assessing the compensation awarded which should not be increased.

6. Since the occurrence of the accident, the driving license, 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 consider the point agitated by both the parties.

7. The Learned Tribunal considered the annual income of the victim to be Rs.15,000/- per month. Considering the judgment pronounced by the Hon'ble Supreme Court in *Meena Devi Vs. Nanu Chand Mahto & Ors.*¹ wherein the Hon'ble Supreme Court had considered only income of a minor victim to be Rs.30,000/- in case of the victim who had been child of 12 years who have died in an accident as mentioned therein. This court is also opined to address the monthly income of the victim to be Rs.30,000/- per month.

8. The compensation as stated in the impugned judgment and order is modified to the following extent.

Yearly Income	Rs. 30,000/-
Multiplier 15	x 15
	Rs. 4,50,000/-
Add General Damages	+ Rs. 50,000/-
	Rs. 5,00,000/-
Already Paid	- Rs. 1,54,500/-
	Rs. 3,45,500/-

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 1,54,500/-. The appellants/claimants are entitled to a sum of Rs. 3,45,500/- along with interest at the rate of 6 per cent per annum to be paid from the date of filing of the claim application till the date of realization. In view of the observation of the Hon'ble Supreme Court in **Parminder Singh**

¹ 2022 ACJ 2478

Vs. Honey Goyal & Ors.² 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 disbursement of the compensation amount.

10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 3,45,500/- along with interest before the office of the Learned Registrar General, High Court at Calcutta within two months from the date of passing of this order.

11. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter disburse the same 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, 3rd Court, Barasat, North 24-Parganas in MAC Case No.479 of 2000 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* court fees.

12. The instant appeal is disposed of accordingly.

13. The pending applications, if any, stands disposed of.

14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(**Ananya Bandyopadhyay, J.)**

² 2025 INSC 361