

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 944 of 2023

**Priyashi Pandey & Anr.
Versus
United India Insurance Company Limited & Anr.**

For the Appellants/claimants : Mr. Jayanta Kumar Mandal.

For the Respondent No. 1/Insurance
Company : Mr. M. P. Chakraborty.

Heard & Judgment on : 11th September, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellants/claimants and the respondents/Insurance Company are present in Court.
2. The instant appeal had been filed against the judgment and award dated 08.12.2022 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court, Durgapur, Paschim Bardhaman in M.A.C. Case No. 205 of 2016.

3. The Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the ground that the Learned Tribunal in computing the monthly income of the victim had considered the number of days to have been worked on by the deceased victim to be '20' instead of '26' as mentioned in the salary slip issued in favour of the victim by P.W. 4.
4. The Learned Advocate representing the respondents/Insurance Company submitted the driver of the offending vehicle being the motorcycle did not possess a valid driving licence and accordingly the claimants were not entitled to any compensation.
5. Since the occurrence of the accident, involvement of the offending vehicle, Insurance certificate etc. are not disputed by the Learned advocate representing the respondents/insurance company, this Court restricts itself only to the extent of rectifying the above-mentioned issues.
6. Considered the rival contentions of the learned Advocates representing the respective parties.
7. The evidence of P.W. 4, an authorized staff of Additional Director (HRD), DVC, Andal had placed before the Court the extract of register of wages for the months of April, May, June and August as well as the pay slip issued in favour of the victim since deceased in the month of September, 2016. It was further

submitted by P.W. 4 that the victim had been a worker of M/s. Bhavani Directors Pvt. Ltd. which had been the enlisted contractor of DVC at Durgapur Steel Thermal Power Station. The documents, as aforesaid, had been marked as Exhibit No. 15 series. The pay slip for the month of September, 2016 revealed the deceased worker to have worked for 26 days. However, a part of the documents marked as Exhibits 15 series also mentioned the number of days employed by the aforesaid contractor deploying the deceased victim as a labour either for 26 days, 25 days or 24 days. On a yearly basis the average can be constituted to be 25 days a month being employed by the enlisted contractor whereon the deceased victim had served as a labour.

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. 17,71,344/- is modified as follows:

Monthly Income [Rs.368/- X 25 days]	Rs. 9,200/-
Annual Income [Rs.9,200/- X 12]	Rs. 1,10,400/-
Add : 40% Future Prospect	Rs. 44,160/-
	<u>Rs. 1,54,560/-</u>

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

² (2009) 6 SC 121

Less : 1/3 rd Personal Expenses	Rs. 51,520/-
	Rs.1,03,040/-
Multiplier to be “17”	X 17
	Rs. 17,51,680/-
Add : Conventional Head [70,000 + 10%]	Rs. 77,000/-
	Rs. 18,28,680/-
Less: Already received in terms of Tribunal's award	Rs. 14,71,344/-
Enhancement	Rs. 3,57,336/-

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs.14,71,344/-. The appellants/claimants are entitled to receive the balance sum of Rs.3,57,336/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its actual realization. In view of the observation of the Hon'ble Supreme Court in Parminder Singh –Vs.- Honey Goyal & Ors.³ 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.
10. The Learned Advocate representing the respondents/Insurance Company is to deposit the balance sum of Rs.3,57,336/- along with interest at the rate of 6% interest per annum from the date of filing of the claim application before the office of the Learned

³ 2025 1 NSC 361

Registrar General, High Court, Calcutta within two months from the date of passing of this order.

11. The Office of the Learned Registrar General, High Court at Calcutta, shall encash the cheques and thereafter disburse the same directly to the Bank accounts of the appellants/claimants in equal proportion as mentioned in the impugned judgment of the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court, Durgapur, Paschim Bardhaman in M.A.C. Case No. 205 of 2016 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. 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.)

Srimanta, A.R.(Ct.)