

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 671 of 2022

**Mamata Manna (Santra) & Ors.
Versus**

Bajaj Allianz General Insurance Company Ltd. & Anr.

For the Appellant : Mr. Jayanta Kumar Mondal
Mr. Sayantan Rakshit

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

Heard & Judgment on : 8th April, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 1st December, 2021 passed by the learned Judge, Motor Accident Claims Tribunal, FTC-II, Tamluk, Purba Medinipur in M.A.C. Case No. 47 of 2018.
3. Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the ground of erroneous assessment of the monthly income of the

victim who was earned a sum of Rs. 6000/- per month being a helper of a bus which could not be proved by the claimants through any documentary evidence and the learned Tribunal assessed the monthly income to be Rs. 4000/-. It was further submitted that the multiplier with regard to the age of the victim to be 25 years at the relevant time of the accident could not have been considered to be 18 instead of 17.

4. The learned Advocate representing the respondent No.1/Insurance Company opposed the submission of the Learned Advocate representing the appellants/claimants, since in absence of documentary evidence and corroborative oral evidence the learned Tribunal was justified in considering the monthly income of the victim to be Rs. 4000/-.
5. Considered the rival contentions of the Learned Advocates representing the respective parties.
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 respondent No.1/insurance company, this Court restricts itself only to consider the point agitated by both the parties. In the year 2017 it would not have been improbable for the victim to earn a sum of Rs. 6000/- per month being a helper of a bus

which could not have been practically proved through any documentary evidence as well as further oral evidence which at all could have been produced.

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. 9,26,800/- is modified as follows:

Monthly Income	Rs. 6000/-
Future Prospect to be added(40%)	Rs. 2400/-
	Rs. 8,400/-
Annual Income(Rs. 8400x 12)	Rs. 1,00,800/-
	X 18
Multiplier to be "18"	Rs. 18,14,400/-
1/4 th Deduction	Rs. 4,53,600/-
Personal Expenses	Rs. 13,60,800/-
	Rs. 77,000/-
General Damages	Rs. 14,37,800/-
Less Award	Rs. 9,26,800/-
Entitlement	Rs. 5,11,000/-

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 9,26,800/-. The appellants/claimants are entitled to a sum of Rs. 5,11,000/- 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.
9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 5,11,000/- along with interest

as aforesaid before the office of the learned Registrar General, High Court Calcutta within six weeks 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 to the present appellants/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, FTC-II, Tamluk, Purba Medinipur in M.A.C. Case No. 47 of 2018 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court's fees.
11. The instant appeal is disposed of accordingly.
12. The pending applications if any stands disposed of.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. AR. Ct.