Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 716 of 2024
CAN 2 of 2025

National Insurance Company Limited
Versus
Aparna Maity (Mondal) & Ors.

With
COT 11 of 2025
Aparna Maity (Mondal) & Ors.
Vs.
National Insurance Company Limited & Anr.

For the Appellant	:	Mr. Sanjay Paul Ms. Jaita Ghosh.
For the Respondent Nos. 1 to 3	:	Mr. Amit Ranjan Roy
Heard & Judgment on	:	19th February, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent Nos. 1 to 3/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 1st February, 2024 passed by the Learned Judge,

Motor Accident Claims Tribunal 2nd Court, Tamluk in M.A.C. Case No. 90 of 2015.

3. An application under Section 166 of the Motor Vehicles Act had been filed due to the death of the victim in an accident which occurred on 29th June, 2015 at about 10:30 hours whereby the victim died on the spot being hit by the offending vehicle being Toyato Qualis bearing registration No. WB-32/3393 while he was standing on Gobardhanpur Junior High School near Digha Mecheda Pitch Road. The offending vehicle at an exceeding speed rashly and negligently hit the victim and escaped the spot for any hindrance.

4. The Learned Advocate representing the appellant/Insurance Company submitted that the driving licence of the driver of the offending vehicle had been faked. However, the said status could not be presented before the learned Tribunal inadvertently. More-over, the income of the victim was assessed to be Rs. 5000/- per month which was exorbitant considering the fiscal index prevalent at the relevant point of time in absence of proper oral as well as documentary evidence. The Learned Advocate representing the appellant/insurance company submitted that the interest was granted at the rate of 7% per annum to have been on the higher side.

5. The learned Advocate representing the respondent Nos. 1 to 3/claimants submits to have filed a cross objection being COT 11 of 2025 agitated the point that the Learned Tribunal did not grant any compensation on account of future prospect.
6. Heard the submissions of the learned Advocates representing both the parties.
7. Since, the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of computing the compensation award considering the future prospect and the monthly income. The victim did not adduce any oral or documentary evidence to prove that he is to earn Rs. 5000/- per month. However, considering that the accident took place in the year 2015 and the prevalent fiscal index, the monthly income of the victim to be Rs. 5000/- per month cannot be improbalised. The rate of interest to be awarded on the computed sum of compensation should be 6% per annum from the date of filing of the claim application under Section 166 of the Motor Vehicles Act till date of its actual realization. The Learned Advocate representing the appellant/insurance company belatedly without controverting the issue of fake driving licence being possessed by the owner of the offending vehicle as

mentioned in the seizure list as well as charge-sheet without further investigation and filing a report to the same cannot claim any relief at this stage.

8. Considering the observations of the Hon'ble Apex Court Pranay in National insurance company Ltd. Vs. Pranay Shetty & Anr1 and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.[2] The impugned award of Rs. 7,50,000/- is modified as follows:

Monthly Income	Rs. 5000/-
Annual Income	X 12
	Rs. 60,000/-
Future prospect (40%)	Rs. 24000/-

Less 1/3rd Deduction Personal Expenses	Rs. 84,000/-
	Rs. 28,000/-
Multiplier to be "17"	Rs. 56,000/-
	X 17
	Rs. 9,52,000/-
General Damages	Rs. 77,000/-
	Rs. 10,29,000/-

9. The learned Advocate representing the appellant/Insurance Company submits to have deposited the entire awarded amount along with 6 % interest per annum from the date of filing of the claim application i.e. 11,42,165/- as per the challan filed by the learned advocate for the Appellant/Insurance company.

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

[2] (2009) 6 SC 121

10. The Respondent Nos. 1 to 3/claimants are entitled to receive the amount of Rs. 10,29,000/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 4th September, 2015 till the date of actual realization.

11. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited to the present respondent Nos. 1 to 3/claimants in equal proportion as mentioned in the impugned judgment passed by the Learned Judge, Motor Accident Claims Tribunal 2nd Court, Tamluk in M.A.C. Case No. 90 of 2015 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees and refund the balance amount if any through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

12. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which has been further deposited in the nationalized bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/ insurance company through distinct account payee cheques.

13. The instant appeal is disposed of accordingly.

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

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

(Ananya Bandyopadhyay, J.)