

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 192 of 2025

**National Insurance Company Limited
Versus
Ajifa Bibi & Ors.**

For the Appellant : Mrs. Sucharita Paul

For the Respondents : Mr. Muktakesh Das,
Ms. Sonali Bag

Heard & Judgment on : 20th August, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present in Court.
2. The instant appeal had been filed against the judgment and award dated 21.07.2023 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Krishnagar, Nadia M.A.C. Case No. 88 of 2019.
3. An application under Section 166 of the M.V. Act had been filed on account of the death of the victim in an accident which

occurred on 25.01.2019 at 6 hours on NH 34 near Soli Bus stop within the jurisdiction of Nakasipara Police Station in the district of Nadia with the involvement of the offending vehicle being a Tata 407 Mini Truck bearing registration No.WB-51A/3336 which approaching at an excessive speed rashly and negligently collided with the motorcycle being driven by the deceased victim with his wife, being a pillion rider resulting in the fall of the victim as well as his wife. Both the deceased victim and his wife suffered severe injuries and had been shifted to Bethuadahari Block Primary Hospital wherein the victim/husband was declared 'brought dead'.

4. The learned Advocate representing the appellant/Insurance Company submitted that the claimants failed to prove the monthly income of the deceased/victim to be Rs.8,500/-. It was further submitted that the driving licence issued in favour of the driver of the offending vehicle had not been seized as per the charge-sheet marked as Exhibit 2. The evidence of P.W.3 was not reliable since the documents marked as Exhibit 12 series were devoid of legal efficacy. The learned Advocate representing the appellant/Insurance Company further stated that the Learned Tribunal had granted interest to the extent of 10% as default interest against the statutory provision.

5. The learned Advocate representing the respondents/claimants submitted that the Learned Tribunal taking into account the relevant aspects had deduced the compensation to be awarded and the same should not be interfered with.
6. Since the occurrence of the accident, insurance policy, the driving licence, route permit etc and other ancillary issues are not disputed by the learned advocate representing the appellant/Insurance Company, this Court restrict itself only to the extent of determine the above-mentioned issues.
7. Considered the rival contentions of the Learned Advocates representing the respective parties.
8. The evidence of P.W.3 being the proprietor of one Das Traders against which a trade licence had been issued vide a valid registration dated 12.11.2018 endorsed his capacity to depose in view of the documents marked as Exhibit 12 series being the salary certificates issued in favour of the deceased victim to have earned a sum of Rs.8,500/- per month which should not be disbelieved. The occurrence of the accident with the involvement of the offending vehicle had been corroborated by the statements in the complaint, FIR, the evidence of the eye-witnesses as well as charge-sheet filed by the Investigating Agency. The issue of driving licence which was not seized as reflected in the charge-sheet was not raised by the appellant/Insurance Company before

the Learned Tribunal nor there was any cross-examination to that effect.

9. Under the facts and circumstances of this case, this Court is not inclined to interfere with the amount of compensation awarded by the Learned Tribunal. However, in the impugned judgment and order as far as the rate of interest is granted by the Learned Tribunal is modified to that extent that the appellant/Insurance Company is to pay interest @ 6% per annum from the date of filing of the instant application under Section 166 of the MV Act till the date of its actual realization deleting the portion in the impugned judgment and order which mentioned about the default rate to be paid @ 10% p.a.
10. The Office of the Registrar General, High Court at Calcutta is to compute the compensation taking into account the interest at the rate of 6% per annum from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its actual realization disregarding the interest to be disbursed at the rate of 10% per annum as mentioned in the impugned Judgment and order and refund the balance amount, if any, along with accrued interest through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the Insurance Company. The Office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide

details of their Bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

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.)

Srimanta, A.R.(Ct.)