

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 70 of 2025

**Purnima Dandopati & Ors.
Versus
United India Insurance Co. Ltd.**

For the Appellant : Mr. Subhankar Mondal.

For the Respondent No.1/
Insurance co. : Mr. Sanjay Paul.
Ms. Jaita Ghosh

Heard & Judgment on : 26th February, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal has been filed against the judgment and award dated 30th June, 2024 passed by the learned Additional District & Sessions Judge, Fast Track 1st Court, Paschim Medinipur in M.A.C. Case No. 254 of 2021.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 21st March, 2021 at about 10.00

p.m. with involvement of the offending vehicle being a Maruti Omni bearing registration no. WB34M/1968 which collided with the victim approached at an exceeding speed, rashly and negligently. The victim was riding a bicycle from behind sustaining severe injuries and was declared "brought dead" at Kharagpur Sub-divisional Hospital.

4. Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal had erroneously granted 10% annual income towards future prospect instead of 40% since the victim was aged about 37 years at the time of the accident being self-employed. More-over, the Learned Tribunal had granted a sum of Rs. 30,000/- towards general damages instead of Rs. 77,000/- in view of the observation of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr.
5. The learned Advocate representing the respondent No.1/insurance company conceded to the submission of the Learned Advocate representing the appellants/claimants.
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 the extent of modifying the impugned judgment and order

rectifying the percentage of future prospect to be granted to the extent of 40% as well as an amount of Rs. 77,000/- towards general damages instead of Rs. 30,000/-.

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. 8,22,000/- is modified as follows:

Monthly Income	Rs. 6000/-
Annual Income(Rs.6000x12)	Rs. 60,000/-
Future Prospect to be added(40%)	Rs. 28,800/-
	Rs. 1,00,800/-
1/3 rd Deduction	
Personal Expenses	Rs. 33,600/-
	Rs. 67,200/-
	X 15
Multiplier to be "15"	Rs. 10,08,000/-
	Rs. 77,000/-
General damages	Rs. 10,85,000/-
	Rs. 8,22,000/-
Less Award	
Entitlement	Rs. 2,63,000/-

8. The Learned Advocate for the appellants/claimants submitted that the appellant/claimant has withdrawn a sum of Rs. 8,22,000/-. The appellants/claimants are entitled to a sum of Rs. 2,63,000/- along with 6% interest per annum to be paid from the date of filing of the claim application i.e. 27.04.2021 till the date of its actual realization.

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 2,63,000/- 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 Additional District & Sessions Judge, Fast Track 1st Court, Paschim Medinipur in M.A.C. Case No. 254 of 2021 on proof of proper identification of the appellants/claimants 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.