Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 103 of 2024

United India Insurance Company Limited
Versus
Gauri Dhara & Ors.

For the Appellant	:	Mr. Sanjay Paul,
For the Respondent Nos. 1 & 2	:	Mr. Krishanu Banik, Mr. Tathagata Banik
Heard & Judgment on	:	27th August, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 14th March, 2022 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court-II, Tamluk, PUrba Medinipur in M.A.C. Case No. 10218 of 2017 under Section 166 of the Motor Vehicles Act.
3. The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal solely on the

ground that the Learned Tribunal though observed that the driving licence possessed by the driver of the offending vehicle on the date of the accident was invalid, however, did not issue directions in favour of the appellant/Insurance Company to pay the compensation to the respondent Nos. 1 and 2/claimants and thereafter recover the same from the owner of the offending vehicle.

4. The Learned Advocate representing the respondent Nos. 1 and 2/claimants submitted the same did not file any cross-objection. Since the accident occurred on 24^{th} of May, 2017, following the principles of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr, the compensation granted should be modified allowing the enhancement of 10% every three years with regard to the general damages.

5. Considered the rival contentions of the respective parties.

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 appellants/Insurance Company, this Court restrict itself only to the extent of determine the above-mentioned issues.

7. The evidence of OPW.1 being the representative of the RTO, Tamluk placed the certified copy of the register before the Learned Tribunal which indicated a driving licence to have been

issued in favour of the driver of the offending vehicle which was valid till 13.09.2010. Moreover, the driver of the offending vehicle was issued with commercial as well as private licence. The Learned Tribunal did observe that the driver was in possession of driving licence though it was not renewed after the date of its expiry. The Learned Tribunal, however, observed as follows:

> "***It is not the case of the OP No.2 that the driver had no license at any point of time. The OP No.2 failed to testify the owner of the vehicle or the driver. Thus in this backdrop, it cannot be said that the driver was driving the vehicle in unauthorized manner making the owner of the vehicle responsible for any damage***".

8. In the facts and circumstances of the case, on the basis of the deposition of OPW.1 endorsed by the documents marked as exhibit No. A, the driver of the offending vehicle at the material point of time did not possess a valid driving licence. The appellant/Insurance Company accordingly is granted the right to recover from the owner of the offending vehicle the compensation amount to be paid to the respondent Nos.1 and 2/claimants on strict proof of its claim.

9. The impugned judgment and order in terms of the compensation award considering an enhancement of 10% every 3 years in accordance to the guidelines of the National insurance company Ltd. Vs. Pranay Shetty & Anr is modified to the following extent.

Monthly Income	Rs. 8,783/-
Annual Income (Rs. 8,783 x 12)	Rs. 1,05,396/-
Deduction towards personal expenses 1/3rd	Rs. 35,132/-
	Rs. 70,264/-
Future Prospect to be added(25%)	Rs. 17,566/-
	Rs. 87,830/-
	X 13
Multiplier to be (13 87,830 x13)	Rs.11,41,790/
General Damages	Rs. 77,000/-
	Rs.12,18,790/

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 16,94,448/=(Rs. 25,000 + 16,69,448) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.

11. The Learned Advocate representing the respondent Nos. 1 and 2/claimants are entitled to receive the amount of Rs. 12,18,790/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 05.07.2017 till the date of actual realization.

12. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the bank accounts of the present respondent Nos. 1 and 2/claimants as mentioned by Learned Additional District Judge,

Motor Accident Claims Tribunal, Fast Track Court-II, Tamluk, PUrba Medinipur in M.A.C. Case No. 10218 of 2017 under Section 166 of the Motor Vehicles Act on proof of proper identification of the respondent No.1 and 2/claimants subject to payment of ad valorem Court fees within four weeks and refund the differential amount, if any, through a cheque to the Learned Advocate for the 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.

13. The instant appeal is disposed of accordingly.

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

15. The interim order if any stand vacated.

16. The TCR be sent down to the concerned tribunal forthwith.

17. Copy of the order be sent to the Department as well as the concerned Tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)