

Form No.J(2)

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

Present:

**The Hon'ble Justice Ananya Bandyopadhyay**

**FMA 514 of 2023**

**Renuka Dolai & Ors.**

**Versus**

**New India Assurance Company Ltd. & Anr.**

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

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

Heard on & Judgment on : 7<sup>th</sup> April, 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 20<sup>th</sup> December, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, 3<sup>rd</sup> Court, Tamluk, Purba Medinipur in M.A.C. Case No. 198 of 2017.
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 4<sup>th</sup> September, 2017 at about

14.30 hours with the involvement of the offending vehicle being a motor cycle bearing Registration No. WB-30H/3860 which being driven rashly and negligently hit the victim stationed on the extreme left side of the concrete road at Moyna Asnan pitch road near Bhunia @ Bhowmik More under the jurisdiction of Moyna Police Station. The victim succumbed to his injuries at S.S.K.M. Hospital at Kolkata on 07.09.2017 as a consequence of the accident sustained by him.

4. Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal had inadequately assessed the monthly income of the victim to be Rs. 5000/- per month who worked as a mason and earned Rs. 9000/- to 10,000/- per month.
5. The learned Advocate representing the respondent No.1/Insurance Company opposed the submission of the Learned Advocate representing the appellants/claimants.
6. Considered the rival contentions of the Learned Advocates representing the respective parties.
7. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the respondent No.1/insurance company, this Court

restricts itself only to the extent of the monthly income of the victim. The accident occurred in the year 2017 and a Mason cannot be expected to prove his income through documentary evidence. However, it would not be improbable for a mason to earn of Rs. 7000/- per month in the year 2017.

8. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr<sup>1</sup> and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.<sup>2</sup> The impugned award of Rs. 10,15,000/- is modified as follows:

|                                                       |                        |
|-------------------------------------------------------|------------------------|
| Monthly Income                                        | Rs. 7000/-             |
| Annual Income                                         | Rs. 84,000/-           |
| Future Prospect to be added( 40%)                     | Rs. 33,600/-           |
|                                                       | <u>Rs. 1,17,600/-</u>  |
| 1/4 <sup>th</sup> Deduction towards personal expenses | Rs. 29,400/-           |
|                                                       | <u>Rs. 88,200/-</u>    |
|                                                       | Rs. 88,200/-           |
| Multiplier to be "15"                                 | X 15                   |
|                                                       | <u>Rs. 13,23,000/-</u> |
| General Damages                                       | Rs. 77,000/-           |
|                                                       | <u>Rs. 14,00,000/-</u> |
| Less                                                  | Rs. 10,15,000/-        |
| Entitlement                                           | <u>Rs. 3,85,000/-</u>  |

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 10,15,000/- The appellants/claimants are entitled to a sum of Rs. 3,85,000/-

---

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

<sup>2</sup> (2009) 6 SC 121

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 realization.

10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 3,85,000/- 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.
11. 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, 3rd Court, Tamluk, Purba Medinipur in M.A.C. Case No. 198 of 2017 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court's fees.
12. The instant appeal is disposed of accordingly.
13. The pending applications if any stands disposed of.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

**(Ananya Bandyopadhyay, J.)**