

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 440 of 2024

**United India Insurance Company Limited
Versus
Parbina Sekh & Ors.**

With

COT/36/2022

**Parbina Sekh & Ors.
Versus
United India Insurance Company Limited & Anr.**

For the Appellant/Insurance Company: Mr. Rajesh Singh.

For the Respondents/claimants : Mr. Ashique Mondal
Mr. Arup Kumar Bag.

Heard & Judgment on : 16th July, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 16.04.2021 passed by the Learned Judge, Motor

Accident Claims Tribunal, Fast Track Court, Durgapur in M.A.C. Case No. 1 of 2016.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants due to the death of the victim in an accident which took place on 03.10.2015 at about 12:00 P.M. on Bankura-Barjora pitch road near Star Hotel at Asuria More within the jurisdiction of Barjora Police Station with the involvement of the offending vehicle being a Maruti van bearing registration no. WB-38Y/9280 which collided with a motor cycle bearing registration No.WB-68N/4006 which was driven by the victim on his way back home from his job resulting in his fall sustaining injuries and succumbing to the same at BMRC Hospital, Barrackpore on 02.11.2015.
4. The Learned Advocate representing the appellant/Insurance Company submitted that the Learned Tribunal had considered the dependency of the father along with other claimants and deducted 1/4th towards personal expenses in absence of an iota of evidence that the father of the victim had been dependent solely on the income of the deceased victim.
5. The Learned Advocate representing the respondents/claimants had filed a cross-objection being COT/36/2022, inter alia, stating that the medical bills which were proved by P.W. 3 were not

taken into consideration by the Learned Tribunal while assessing the compensation.

6. 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 rectifying the above-mentioned issues.
7. Considered the rival contentions of the respective parties. The father of the victim did not appear before the Learned Tribunal to state that the same was dependent solely on the income of the victim or any other oral or documentary evidence to corroborate his claim was substantiated before the Learned Tribunal. Accordingly, the personal expenditure for deduction should be to the extent of 1/3rd. Moreover, the documents marked as exhibit 10 series by the Learned Tribunal while recording evidence of P.W. 3 mentioned a sum of Rs. 30,776/- to have been spent on the medical expenditure of the victim which should have been considered by the Learned Tribunal while assessing the compensation.
8. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr¹ and

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

Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.², the impugned award of Rs. 30,88,078/- is modified as follows:

Annual Income	Rs. 1,69,080/-
Add : Future Prospect (40%)	Rs. 67,632/-
Less: 1/3 rd Personal Expenses	Rs. 2,36,712/-
	Rs. 78,904/-
Multiplier to be "17"	Rs. 1,57,808/-
	X 17
Add : General Damags	Rs. 26,82,736/-
	Rs. 84,000/-
Add : Medical Expenses	Rs. 27,66,736/-
	Rs. 30,776/-
	Rs. 27,97,512/-

9. The Learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.48,33,984/- as per challan filed by the Learned Advocate representing the Appellant/Insurance Company.
10. The Respondents/claimants are entitled to receive the amount of Rs. 27,97,512/- at the rate of 6% per cent per annum from the date of filing of the claim application 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 with accrued interest directly to the Bank accounts of the respondents/claimants in equal

² (2009) 6 SC 121

proportion as mentioned in the impugned judgment of the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court, Durgapur in M.A.C. Case No. 1 of 2016 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees 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.

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.)

Srimanta, A.R.(Ct.)