

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

IA No.:CAN/2/2024

in

FMA 193 of 2025

National Insurance Company Limited

Versus

Aduri Singha Sarkar & Ors.

For the appellant/Insurance Company : Mr. Sanjay Paul

For the respondents/claimants : Mr. Muktakesh Das,
Ms. Sonali Bag

Heard & Judgment on : 31th July, 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 05.03.2024 passed by the Learned District Judge, Motor Accident Claims Tribunal, Nadia at Krishnagar in M.A.C. Case No. 40 of 2015.
3. The Learned Advocate representing the appellants/Insurance Company submitted to have filed the instant appeal exclusively on the ground that the Learned Tribunal in absence of any oral

and documentary evidence failed to perceive that the father of the deceased was solely dependent on the income of the deceased victim and should have deducted $\frac{1}{3}^{\text{rd}}$ of the income of the deceased victim towards personal expenses instead of $\frac{1}{4}^{\text{th}}$.

4. The Learned Advocate representing the respondents/claimants submitted to have failed to produce any concrete evidence before the Learned Tribunal that the father was dependent only on the income of the deceased victim.
5. 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 restricts itself only to the extent of determine the above-mentioned issues.
6. Considered the rival contentions of the respective parties.
7. Perusal of the evidence on record it transpired that the claimants failed to adduce any cogent evidence that the father was solely dependent on the income of the victim and as such the impugned Judgment and order is modified to the extent that $\frac{1}{3}^{\text{rd}}$ instead of $\frac{1}{4}^{\text{th}}$ should be deducted from the annual income assessed with regard to that of the victim.

8. 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. 35,11,088/- is modified as follows:

Annual Income	Rs. 1,91,172/-
Future Prospects (50% of Income)	Rs. 95,586/-
	Rs. 2,86,758/-
Less : 1/3 rd	
Add : 50% Future Prospect	Rs. 95,586/-
	Rs. 1,91,172/-
Multiplier to be "16" [1,91,172 X 16]	Rs. 30,58,752/-
Add : General Damages	Rs. 70,000/-
Total	Rs. 31,28,752/-

9. The Learned Advocate representing the appellant/Insurance Company submitted to have deposited a sum of Rs.55,85,694/- 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. 31,28,752/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

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

² (2009) 6 SC 121

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 to the Bank accounts of the respondents/claimants as mentioned in the impugned judgment of the Learned District Judge, Motor Accident Claims Tribunal, Nadia at Krishnagar in M.A.C. Case No. 40 of 2015 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)