

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 86 of 2024

Budhorani Roy & Ors.

Versus

The Oriental Insurance Co. Ltd. & Anr.

For the appellants/claimants. : Mr. Saidur Rahaman

For the respondent nos. 1 : Mr. Parimal Kr. Pahari

Heard & Judgment on : 15th 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 27.01.2023 passed by the learned District Judge, Motor Accident Claims Tribunal, Raiganj, Uttar Dinajpur in M.A.C. Case No. 177 of 2020.
3. The learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the

ground of quantum, inter alia, stated that the learned Tribunal had considered the monthly income of the victim to be Rs.5,000/- instead of Rs.9,000/- claimed by the victim working as a Mason. Moreover, the Tribunal in computing the age of the victim had considered the component of future prospect to be 30% instead of 40%.

4. The learned Advocate representing the respondents/Insurance Company submitted that the learned Tribunal after assessing the oral as well as documentary evidence has justifiably computed the compensation awarded which should not be interfered with.
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 respondent No.1/insurance company, this Court restricts itself only to the extent of the above-mentioned issues.
6. Considered the rival contention of the respective parties. In the year 2020 a person working as a Mason could have earned Rs.7,500/- per month which would not have been improbable. Moreover, it could not have been possible for a person to have provided documentary evidence of his avocation as a Mason. However, considering the age of the victim to have been 40 years

and 2 months the element of future prospect should have been assessed to the extent of 25%.

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. 8,30,000/- is modified as follows:

Monthly Income	Rs. 7500/-
Annual Income	Rs. 90,000/-
Future Prospect to be added(25%)	Rs. 22,500/-
	Rs. 1,12,500/-
1/3 rd Deduction	Rs. 37,500/-
Personal Expenses	-----
	Rs. 75,000/-
Multiplier to be "15"	X 15
	Rs. 11,25,000/-
General Damages	Rs. 70,000/-
	Rs. 11,95,000/-
Less : Already Paid	Rs. 8,30,000/-
Entitlement	
	Rs. 3,65,000/-

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 8,30,000/-. The appellants/claimants are entitled to a further sum of Rs. 3,65,000/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization. In view of the observation of the Hon'ble Supreme

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

² (2009) 6 SC 121

Court in Parminder Singh -Vs.- Honey Goyal & Ors.³ the appellants/claimants are to provide the details of Bank accounts held in the name of the appellants/claimants at the Office of the Learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 3,65,000/- along with 6 % per cent interest per annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within three months 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 in equal proportion as mentioned in the award passed by the learned District Judge, Motor Accident Claims Tribunal, Raiganj, Uttar Dinajpur in M.A.C. Case No. 177 of 2020 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.

³ 2025 INSC 361

13. 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)