

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1346 of 2021

**Smt. Sumita Pal & Ors.
Versus
National Insurance Company Limited & Anr.**

For the Appellants/claimants : Mr. Jayanta Kumar Mandal.

For the Respondent No. 1/Insurance
Company : Mrs. Sucharita Paul.

For the Respondent No. 2 : Mr. Kingsuk Mondal.

Heard & Judgment on : 10th September, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellants/claimants and the respondents/Insurance Company are present in Court.
2. The instant appeal had been filed against the judgment and award dated 24.02.2021 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court – II, Tamluk, District – Purba Medinipur in M.A.C. Case No. 96 of 2015.

3. The Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the ground that the Learned Tribunal did not consider the evidence of P.W. 3 and P.W. 4 in its proper perspective and considered the victim to have earned Rs.300/- per day working two days a week, i.e., Rs.600/- per week multiplied by 52 weeks amounting to Rs.31,200/- annually.
4. The Learned Advocate representing the respondents/Insurance Company submitted that the certificate was issued by P.W. 3 and P.W. 4 at the request of the wife of the deceased victim which raised suspicion with regard to its veracity.
5. 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 respondents/insurance company, this Court restricts itself only to the extent of rectifying the above-mentioned issues.
6. Considered the rival contentions of the learned Advocates representing the respective parties.
7. The deposition of P.W. 3 revealed the victim to deal in certain articles at Tetulberia Matangini Bazar where he used to sell the said articles on Sunday and Wednesday earning Rs.300/- to Rs.400/- per day. P.W. 4 deposed before the Court that the deceased victim used to sell the articles at Gandhinagar Kali

Bazar on every Tuesday and Saturday earning a sum between Rs.300/- to Rs.400/- per day. The Learned Tribunal instead of considering the income of the deceased victim pertaining to two days should have computed the same on the basis of four days a week.

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. 6,26,920/- is modified as follows:

Annual Income [Rs.1,200/- X 52 weeks)	Rs. 62,400/-
Add : 40% Future Prospect	Rs. 24,960/-
	<u>Rs. 87,360/-</u>
Multiplier to be "17"	X 17
	<u>Rs. 14,85,120/-</u>
1/4 th Personal Expenses	Rs. 3,71,280/-
	<u>Rs. 11,13,340/-</u>
Add : General Damages	Rs. 77,000/-
	<u>Rs. 11,90,340/-</u>
Less: Already received in terms of Tribunal's award	Rs. 6,26,920/-
	<u>Rs. 5,63,420/-</u>
Enhancement	

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs.6,26,920/-.

The appellants/claimants are entitled to receive the balance sum

of Rs.5,63,420/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its actual realization. In view of the observation of the Hon'ble Supreme 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.

10. The Learned Advocate representing the respondents/Insurance Company is to deposit the balance sum of Rs.5,63,420/- along with interest at the rate of 6% interest per annum from the date of filing of the claim application before the office of the Learned Registrar General, High Court, Calcutta within two months from the date of passing of this order.
11. The Office of the Learned Registrar General, High Court at Calcutta, shall encash the cheques and thereafter disburse the same directly to the Bank accounts of the appellants/claimants in equal proportion as mentioned in the impugned judgment of the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court – II, Tamluk, Purba Medinipur in M.A.C. Case No. 96 of 2015 on

² (2009) 6 SC 121

³ 2025 1 NSC 361

proof of proper identification of the appellants/claimants subject to payment of ad valorem Court fees.

12. The instant appeal is disposed of accordingly.
13. The pending applications, if any, stands disposed of.
14. The TCR be sent down to the concerned Tribunal forthwith.
15. 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.)