

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 713 of 2023

**ICICI Lombard General Insurance Co. Ltd.
Versus
Umbel Bibi & Ors.**

For the Appellant Insurance co.	:	Mr. Parimal Kumar Pahari
For the Respondent Nos. 1 to 2 claimants	:	Mr. Jayanta Kumar Mondal Mr. Sayantan Rakshit

Heard on	:	27.02.2025
& Judgment on	:	20 th March, 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 29th April, 2023 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Special Court at Paschim Medinipur in M.A.C. Case No. 403 of 2018.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of their son in an accident which occurred on 01.01.2017 at about 5.40 p.m. with the involvement of the offending vehicle being Motor cycle bearing registration No. WB-34AV/9631 which hit the victim standing on Dharma H.P. Petrol Pump by him on the left side of the Kharanichati Dharma N.H. 60 Road when the offending vehicle had an exceeding speed in rashly and negligently hit the victim causing injuries on his body and on being shifted to Midnapore Medical College & Hospital. The victim expired on the same date.
4. Learned Advocate representing the appellant/insurance company submitted that the Learned Tribunal in absence of any oral and documentary evidence assessed the monthly income of the victim to be Rs. 8000/- per month had been excessive. More-over, since the victim had been a bachelor and the parents being the claimants, general damages was granted to the extent of Rs. 70,000/- per month without deducting the loss of consortium with regard to his wife which should be 30% instead of Rs. 70,000/-.
5. The Learned Advocate representing the respondent Nos. 1 and 2/claimants submitted that the victim had been a helper; he

used to earn Rs. 8000/- per month and the Learned Tribunal had justifiably considered the monthly income of the victim to be Rs. 8000/- per month.

6. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent agitated by the Learned Advocate representing the appellant/insurance company in absence of corroborative oral and documentary evidence the monthly income of the victim can be assessed to the extent of Rs. 7000/- per month. More-over, since victim had been a bachelor the claimants should be entitled to the extent of Rs. 30,000/- on account of general damages.

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. 13,66,600/- is modified as follows:

Annual Income (Rs. 7000 x 12)	Rs. 84,000/-
Future Prospect to be added(40%)	Rs. 33,600/-
	Rs. 1,17,600/-
Deduction towards personal & 1/2 nd	Rs. 58,800/-
	Rs. 58,800/-

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

² (2009) 6 SC 121

Multiplier to be "18"	Rs. 58,800/- X 18
	Rs. 10,58,400/-
General damages (Rs. 30,000 + 20%)	Rs. 36,000/-
Entitlement	Rs. 10,94,400/-

8. The respondent Nos. 1 and 2/claimants are entitled to a sum of Rs. 10,94,400/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its realization.
9. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 17,88,928/=(Rs. 25,000 + 17,63,928) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present respondent Nos. 1 and 2/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Special Court at Paschim Medinipur in M.A.C. Case No. 403 of 2018 on proof of proper identification of the respondent Nos. 1 and 2/claimants subject to payment of ad valorem Court's fees and refund the differential amount if any through a cheque to the learned advocate for

the insurance company for the accounts of the insurance company.

11. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which has been further deposited in the nationalized bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company through a cheque to be deposited at the office of the appellant/insurance company.
12. The instant appeal is disposed of accordingly.
13. The interim order if any stand vacated.
14. The pending applications if any stands disposed of.
15. The TCR be sent down to the concerned tribunal forthwith.
16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)