

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A.T (MV) 458 of 2023

Suparna Hawlader (Biswas) & Ors.

-Vs-

The New India Assurance Co. Ltd. & Ors.

For the Appellants : Mr. Muktakesh Das
: Ms. Sonali Bag

For the Respondent No.1/ : Ms. Gopa Das Mukherjee
Insurance Company

For the Respondent No.2/ : Mr. Rajesh Singh
Insurance Company

Heard & Judgment on : 06.05.2025

Ananya Bandyopadhyay, J.:-

1. The instant appeal was heard earlier and judgment was reserved. However, the matter was listed under the heading **“For Hearing”** for further clarification.
2. The Learned Advocates representing the appellants/claimants as well as the respondent no.1/Insurance Company are present.
3. Three claimants filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-4, Krishnagar being MAC Case No.409/2015, claiming an award of Rs. 21,60,000/- along with interest and cost whereby the aforesaid deceased expired due to a road traffic accident on 02/11/2015

at about 12:05 midnight. The offending vehicle being a bus bearing Registration No. WB-37A/6256 hit the aforesaid deceased travelling in a car rashly and negligently. Consequently, the victim sustained grievous injuries and expired on his way to J.N.M. Hospital, Kalyani. Subsequently, based on a complaint, Bizpur P.S. Case No. 491/2015 dated 02.11.2015 was instituted against the driver of the offending vehicle as aforesaid.

4. The owner of the offending vehicle did not appear in this case and the case was heard ex parte owner of the vehicle. The respondent, the New India Assurance Co. Ltd. contested the aforesaid MAC case.
5. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidences and awarded a sum of Rs.10,85,000/- as well as an interest of 6% from the date of filing the case, payable by the Insurance Company.
6. The Learned Advocate representing the Appellants/claimants submitted the husband of the appellant No.1 earned Rs. 15,000/- per month as Supervisor in the SP Sanyal Enterprise Pvt. Ltd., which was not considered. More-over, the learned Tribunal did not consider the monthly income of the deceased was Rs. 15000/- according to the Income Certificate (Ext.9), which had been issued by the Director of S.P. Sanyal Enterprise Pvt. Ltd.
7. The Learned Advocate representing the respondents/insurance company submitted the learned Tribunal after assessing the oral and documentary evidence passed the impugned judgment and order disbelieving the

claimants' statement of the monthly income of the victim to the extent of Rs. 15,000/- in absence of relevant reliable documents considering the notional income of Rs. 6000/- per month, which should not be interfered with.

8. Heard the submission of the learned advocates representing the respective parties.
9. Since, the occurrence of the accident, involvement of the offending vehicle, the driving licence, insurance certificate etc. are not disputed by the learned Advocate representing the respondents/insurance company, this Court restricts itself only to the extent of issues agitated by the Learned Advocates representing both the parties.
10. The evidence of P.W. being an authorised representative of S.P. Sanyal Enterprise Pvt. Ltd. stated the income certificate was issued by the Director of the aforesaid company after his death, which was typed by P.W.3 in the letterhead of the aforesaid company stated the deceased victim used to earn a salary of Rs. 10,000/- per month and the said income certificate was marked as Ext.9, contrary to the claim application, which stated the monthly salary of the deceased victim to have been Rs. 15,000/- per month. Such discernable contradiction prejudices the claim application to the contrary. Moreover none of the ancillary documents viz., salary register, attendance register, appointment letter, bank accounts were produced to corroborate the claim of the victim's monthly income. The learned Tribunal taking into account both the oral and

documentary evidence had rightly passed the impugned judgment and order which should not be interfered with.

11. The instant appeal is dismissed accordingly.

12. The Trial Court records shall be sent down to the concerned Tribunal forthwith.

13. Copy of the order be sent to the Department as well as concerned Tribunal for information.

(Ananya Bandyopadhyay, J.)