

Bm

Form No. J(2)

District: PASCHIM BARDHAMAN

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1060 of 2024

UNITED INDIA INSURANCE COMPANY LTD.

VS

MUKTA KARMAKAR AND ORS.

WITH

COT 162 OF 2024

MUKTA KARMAKAR AND ORS

VS

UNITED INDIA INSURANCE COMPANY LTD.

Mr. M. P. Chakraborty

Mr. R. D. Karmakar

Ms. Deysini Chakrabarti

... for the appellant/ Insurance Company

Mr. Jayanta Kumar Mandal

Mr. Sayantan Rakshit ... for the respondents/claimant nos.1 to 4

Heard on : 12.09.2025

Judgment on : 12.09.2025

Ananya Bandyopadhyay J.

1. The Learned Advocates representing both the parties are present in court.

2. The instant appeal had been filed against the judgment and order dated 29.04.2024 passed by the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District and Sessions Judge, Fast Track Court, at Durgapur, District-Paschim Bardhaman in MAC Case No.103 of 2018.

3. An application under Section 166 of the Motor Vehicle Act, had been filed by the claimants on account of death of the victim in an accident which occurred on 09.07.2018 at about 4.40PM on Bankura Durgapur State Highway near “Dutta Automobile” with the involvement of offending vehicle being SBSTC Bus bearing registration No.WB-39B/3620 which clashed the victim on his returning from office approaching at an excessive speed, rashly and negligently whereby the victim instantaneously fall down having suffered severe injuries and on transmission to Barjora Super Specialty Hospital, Barjora where he was declared “brought dead”.

4. The Learned Advocate representing the appellant /Insurance Company submitted to have filed the instant appeal on the ground the driver of the offending vehicle did not possess a valid driving licence on the date of occurrence of the accident. The Learned Tribunal erroneously applied the multiplier ‘11’ instead of ‘9’ considering the age of the victim to be more than 55 years on the date of the accident. The number of claimants being four the Learned Tribunal should have deducted $\frac{1}{4}$ th of the annual income towards personal expenses instead of $\frac{1}{3}$ rd. In spite of net recorded salary, the amount of gross salary was considered for the purpose of computation of the compensation.

5. The Learned Advocate representing the respondents/claimants submitted to have filed a cross objection being number COT 162 of 2024 which, inter alia, stated that the Learned Tribunal had considered the compensation amount to be divided amongst four claimants. However, had deducted $\frac{1}{3}$ rd of the annual income towards personal expenses instead of $\frac{1}{4}$ th. It was further submitted that the Learned Tribunal had rightly assessed the multiplier to be ‘11’ as per the Voter ID Card and the PAN Card marked as exhibit-18 series. The age of the victim on the date of the

accident appear to be 55 years 7 months. Accordingly, the Learned Tribunal was justified in considering the multiplier to be '11'. The salary slips marked as Exhibit-17 series reflected the gross salary of the victim to be Rs.13,800/- which was not taxable if at all taken cumulatively for the entire year. Therefore, the Learned Tribunal was correct in considering the monthly income of the victim to be Rs.13,800/-. It was further submitted that the appellant/Insurance Company did not adduce any evidence with regard to the invalidation of the driving licence.

6. Considered the rival submissions of the Learned Advocates representing the respective parties.

7. Since the occurrence of the accident, the driving license, 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 consider the point agitated by both the parties.

8. The charge sheet marked as Exhibit-3 had mentioned in the column of article seized. The Driving Licence to have been seized which was valid till 18th July, 2021 which aptly covered the date on which the accident occurred. The Driver of the offending vehicle therefore possessed a valid driving licence contrary to the contention of the Learned Advocate for the appellant Insurance Company. Moreover, the victim did not attained the age of 56 but had cross the age of 55 years therefore, the Tribunal did not commit any error in considering the multiplier to be '11'. Since, the income of the victim was not taxable the monthly salary of Rs.13,800/- was aptly considered. Moreover, the number of claimants being four arising out of the fact as to whether the daughter of the victim was married or unmarried the benefit should have been granted in her favour though the

Tribunal had apportioned compensation awarded in four equal parts to deduction of the annual income should have been to the 1/4th.

9. 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 is modified as follows:

Annual Income (Rs. 13800 x 12)	Rs. 1,65,600/-
Future Prospect 15%	Rs. 24,840/-
Less 1/4 th personal expenses	Rs. 1,90,440/-
	Rs. 47,610/-
Multiplier to be "11"	Rs. 1,42,830/-
	X 11
	Rs. 15,71,130/-
General Damages	Rs. 84,000/-
Entitlement	Rs. 16,55,130/-

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 19,71,752/=(Rs. 25,000 + 19,46,752) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company. The Learned Advocate representing the appellant/insurance company is to deposit the remaining balance amount before the office of the Learned Registrar General, High Court at Calcutta within two months from the date of passing of this order.

11. The Learned Advocate representing the respondent Nos. 1 to 4/claimants are entitled to receive the amount of Rs. 16,55,130/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 13.07.2018 till the date of actual realization.

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

12. 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 directly to the bank accounts of the present respondent Nos. 1 to 4/claimants as mentioned in the impugned judgment and award passed by the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District and Sessions Judge, Fast Track Court, at Durgapur, District-Paschim Bardhaman in MAC Case No.103 of 2018 on proof of proper identification of the respondent No.1 to 4/claimants subject to payment of ad valorem Court fees. 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.

13. The instant appeal and cross objection are disposed of accordingly.

14. The pending application, if any, stands disposed of.

15. The interim order if any stand vacated.

16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(**Ananya Bandyopadhyay, J.)**