

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1182 of 2022

**National Insurance Co. Ltd.
Versus
Binod Bharati & Ors.**

For the Appellant	:	Mr. Sanjay Paul
For the Respondent No.1 to 5/ Claimants	:	Mr. Sayantan Bose Mr. Sattik Rout
Heard & Judgment on	:	28 th 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 13th June, 2022 passed by the learned Judge, Motor Accident Claims Tribunal cum Fast Track 3rd Court, Sadar Paschim Medinipur in M.A.C. Case No. 674 of 2021.
3. The application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which took place on 28.05.2021 when the

deceased victim i.e. driver of the offending vehicle being truck bearing registration No. OR-15N-8413 reached the Kharigeriya near A1 Dhaba at Kharagpur to Odisha. The victim in order to change side of the wheel of the truck was replacing tyre on the left side of the road when the offending vehicle being another truck bearing registration No. TN-30BB1011 approached at an excessive speed and dashed the victim who received severe injuries on his body and was declared brought dead at Kharagpur S.D. Hospital.

4. Learned Advocate representing the appellant/insurance company submitted that the learned Tribunal in absence of corroborative evidence granted a sum of Rs. 10,000/- as monthly income which was inflated. More-over, a sum of Rs. 1,76,000/- was granted towards loss of consortium which was erroneous.
5. The learned Advocate representing the respondent Nos. 1 to 5/claimants submitted that the learned Tribunal considering each and every aspect as well as the oral and documentary evidence granted the compensation correctly which shall not be interfered with.
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 respondent No.1/insurance company.

7. Considered the rival submissions of the Learned Advocates representing respective parties.
8. The evidence of P.W.2 being the eye-witness as well as the helper of the truck bearing registration No. OR-15N-8413 as well as stated to have witnessed the occurrence of the accident. The deposition of P.W.2 revealed that the deceased victim had been a driver of the aforesaid truck and vividly narrated the incident corroborating the claimants case as well as the materials on charge-sheet during his cross examination P.W.2 stated to have worked for the deceased victim 02-03 years. Accordingly, the avocation of the victim cannot be challenged though the monthly income of the victim could be proved through documentary evidence which supposedly could have been a variable component. The learned tribunal had aptly considered the monthly income of the victim to be Rs. 10,000/- which need not be interfered with. The learned Tribunal did error in considering to loss of consortium to the extent of Rs. 1,76,000/- contrary to the principles laid down prescribed in National Insurance Co. Ltd. Vs. Pranay Shetty & Anr.

9. Considering the observations of the Hon'ble Apex Court in *Pranay in National insurance company Ltd. Vs. Pranay Shetty & Anr*¹ and *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*² The impugned award of Rs. 22,25,000/- is modified as follows:

Monthly Income	Rs. 10,000/-
Annual Income	Rs. 1,20,000/-
Future Prospect to be added(40%)	Rs. 48,000/-
1/4 th Deduction	Rs. 1,68,000/-
Personal Expenses	Rs. 42,000/-
	Rs. 1,26,000/-
	X 16
Multiplier to be " 16"	Rs. 20,16,000/-
General Damages	Rs. 77,000/-
Entitlement	
	Rs. 20,93,000/-

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 25,94,132/=(Rs. 25,000 + 25,69,132) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
11. The Respondent Nos. 1 to 5/claimants are entitled to receive the amount of Rs. 20,93,000/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application 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 respondent Nos. 1 to 5/claimants as mentioned in the impugned judgment and order passed by the learned Judge, Motor Accident Claims Tribunal cum Fast Track 3rd Court, Sadar Paschim Medinipur in M.A.C. Case No. 674 of 2021 on proof of proper identification of the respondent No.1 to 5/claimants subject to payment of ad valorem Court fees and refund the balance amount with accrued interest through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company. 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 is disposed of accordingly.
14. The interim order if any stand vacated.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. AR. Ct.