

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**FMA 369 of 2022
National Insurance Co. Ltd & Anr.**

Vs.

Kanti Devi & Ors.

With

COT 40 of 2022

Kanti Devi & Ors.

Vs.

National Insurance Co. Ltd..

For the Appellants : Mr. Parimal Kumar Pahari

For the Respondents : Mr. Ashique Mondal

Heard on & Judgment on : 08.05.2025

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 respective parties are present.
3. The claimants filed an application under Section 166 of the M.V. Act in the Court of the Motor Accident Claims Tribunal, Bench VI, City Civil Court at Calcutta, being MAC Case No. 268 of 2016, claiming compensation for the accidental death of Ramnath Singh. On 23/01/2016 at about 17:40 hours, while the deceased was walking as a pedestrian along S.N. Banerjee Road, Kolkata-13, he was knocked down in front of premises no. 138 by a private bus bearing Registration No. WB-23C/0903 (Route No. 34C), which was being driven from East to West in a rash and negligent manner. As a result of the impact, Ramnath Singh sustained serious injuries and was removed to

Calcutta Medical College and Hospital, where he was declared brought dead. In connection with the said accident, a case was registered with Taltala Police Station being P.S. Case No. 28 dated 23.01.2016 under Sections 279/304A of the Indian Penal Code. National Insurance Co. Ltd contested the aforesaid MAC case.

4. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence awarded Rs 14,02,544/- with an interest payable at 12% per annum.
5. The Learned Advocate representing the appellant/insurance company submitted that the learned Tribunal had granted interest at the rate of 12% from the date of filing of the claim application till the date of its realisation of the awarded amount. Moreover, the offending vehicle was not involved in the accident.
6. The Learned Advocate representing the respondents/claimants to have filed cross objection being COT 40 of 2022 on the following grounds for seeking enhancement of the compensation amount:
 - a) Compensation was not granted towards future prospect.
 - b) A sum of Rs. 2000/- granted to funeral expenses instead of Rs. 15,000/-.
 - c) General damages to the extent of Rs. 84000/- should have been granted.
7. Considered the submission of the Learned Advocates representing for both the parties.
8. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, etc. have not been disputed by the Learned Advocate representing the appellant/insurance company, this Court restricts itself only to the points agitated by the Learned Advocate representing the

appellant/insurance company as well as respondents/claimants. The monthly income of the victim has assessed by the learned Tribunal has not interfered with.

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 Rs. 14,02,544/- is modified as follows:

Monthly income	Rs. 15,938/-
Annual Income (Rs. 15,938 x12)	Rs. 1,91,256/-
1/3 rd Deduction	Rs. 63,752/-
Personal Expenses	Rs. 1,27,504/-
Future Prospect to be added(10%)	Rs. 12,750/-
	Rs. 1,40,254/-
Multiplier to be " 11"	X 11
	Rs. 15,42,794/-
Non Pecuniary Damages	Rs. 84,000/-
Entitlement	Rs. 16,26,794/-

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 25,000/- as per challan filed by the learned advocate representing the appellant/insurance company. The appellant/insurance company are withdrawn the aforesaid statutory amount of Rs. 25,000/- with accrued interest at the office of the learned

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Registrar General, High Court at Calcutta. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 16,26,794/- along with interest at the rate of 6% per annum from the date of filing of the claim application till the date of its realisation before the office of the learned Registrar General High Court at Calcutta within six weeks from the date of passing of this order.

11. The Respondent Nos. 1 to 3/claimants are entitled to receive the amount of Rs. 16,26,794/- 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.
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 to the respondent Nos. 1 to 3/claimants with accrued interest as mentioned by learned Judge, Motor Accident Claims Tribunal cum Learned Judge, VI Bench, City Civil Court, Calcutta in M.A.C. Case No. 268 of 2016 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees within four weeks.
13. The instant appeal and cross objection are 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.)

