

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1059 of 2024

**The New India Assurance Co. Ltd.
Versus
Susmita Achaya & Ors.**

For the Appellant : Mr. Sanjay Paul

For the Respondent No.1 to 4/
claimants : Mr. Krishanu Banik

Heard & Judgment on : 8th April, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 3rd May, 2025 passed by the learned Judge, Motor Accident Claims Tribunal cum 2nd Court, Suri, Birbhum in M.A.C. Case No. 112 of 2018.
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 30.01.2018 at about 12.55

hours near Rupganj on Joideb Ghat to Malandighit Road within the jurisdiction of Kanksa Police station district Paschim Bardhaman. With the involvement of the offending vehicle being a lorry bearing registration No. WB23C-7018 which was proceeding at an exceeding speed rashly and negligently collided with the police vehicle bearing registration No. WB42R-7454 resulting in an accident whereby the victim was affected and expired on 02.02.2018 at Sanaka Hospital, Durgapur for treatment.

4. Learned Advocate representing the appellant/insurance company submitted that the learned Tribunal considered the last monthly pay slip instead of average of pay slips of the deceased while assessing the income of the deceased. More-over, the interest was granted at the rate of 9% per annum and the sum of Rs. 80,000/- along with Rs. 40,000/- were granted towards parental consortium as well as filial consortium respectively.
5. The learned Advocate representing the respondent Nos. 1 to 4/claimants submitted that the learned Tribunal did not consider the "Form 16" in considering the annual income of the victim.
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, this Court restricts itself only to consider the point agitated by both the parties. The learned Tribunal erroneously granted the parental consortium as well as filial consortium to the extent of 1,20,000/- . The interest to be paid at the rate of 9% per annum had been exorbitant which should be reduced at the rate of 6% per annum. Since there had been a difference in the pay slip indicating the income of the victim to be at variance, the "Form 16" should be considered and the sum of Rs. 3,79,294/- (Rs. 3,81,244- Rs. 1950) should be considered to be the annual income of the victim based on the document marked as Ext. 13 being the Form 16 pertaining to the period 01.03.2016 to 28.02.2017 for the assessment year 2017-18.

7. The impugned judgment and award is accordingly modified to the following extent:

Annual Income	Rs. 3,79,294/-
Future Prospect to be added(30%)	Rs. 1,13,788/-
1/4 th Deduction	Rs. 4,93,082/-
Personal Expenses	Rs. 1,23,270/-
	Rs. 3,69,812/-
	X 14
Multiplier to be " 14"	
General Damages	Rs. 51,77,368/-
	Rs. 84,000/-
Entitlement	Rs. 52,61,368/-

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 86,00,918/=(Rs. 25,000 + 85,25,918) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
9. The Respondent Nos. 1 to 4/claimants are entitled to receive the amount of Rs. 52,61,368/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 18.04.2018 till the date of actual realization.
10. 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 4/claimants as mentioned by learned Judge, Motor Accident Claims Tribunal cum 2nd Court, Suri, Birbhum in M.A.C. Case No. 112 of 2018 on proof of proper identification of the respondent No.1 to 4/claimants subject to payment of ad valorem Court fees and refund the balance amount through a cheque to the Learned Advocate for the Appellant/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. 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.