

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 821 of 2023

**United India Insurance Co. Ltd.
Versus
Rita Rana & Ors.**

For the Appellant
Insurance co.

: Mr. Sanjay Paul
Ms. Jaita Ghosh

For the Respondent Nos. 1 to 5
claimants

: Mr. Amit Ranjan Roy

Heard on

: 17.03.2025

Judgment on

: 24th March, 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 10th April, 2023 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge Special Court, Paschim Medinipur in M.A.C. Case No. 311 of 2020.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants in an accident which occurred on 10.06.2020 at about 22.30 hours. with the involvement of the offending vehicle being Tata Indigo bearing registration No. WB-30k/0923 which at an exceeding speed rashly and negligently hit the victim who was riding on his bicycle returning from work place. The victim suffered severe injuries and shifted to Dwarigeria Rural Hospital where he was declared to have expired.
4. Learned Advocate representing the appellant/insurance company submitted that the Learned Tribunal had erroneously assessed the monthly income of the victim to be Rs. 10,000/- in absence of corroborative oral and documentary evidence. Moreover, the general damages to the extent of 3,20,000/- had been extortionate which otherwise should have been Rs. 77,000/.
5. The Learned Advocate representing the respondent Nos. 1 and 5/claimants submitted that the victim being a 'mason' at the relevant time of the accident in accordance to the prevalent rates received Rs. 15,000 approximately Rs. 8000/- to Rs. 10,000/- per month.

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 appellant/insurance company, this Court restricts itself only to the extent agitated by the Learned Advocate representing the appellant/insurance company indubitably thereto had been an error on the part of the Learned Tribunal to have assessed the general damages to the extent of Rs. 3,20,000/- on various heads which otherwise should have been Rs. 77,000/- in view of the observation of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr. In absence of corroborative oral evidence the monthly income of the victim can be assessed as Rs. 8500/- considering the fiscal index prevalent at the relevant point of time of accident which could have been improbable.
7. 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. 25,88,000/- is modified as follows:

Monthly Income	Rs. 8500/-
Annual Income(Rs. 8500 x 12)	Rs. 1,02,000/-
Future Prospect to be added(40%)	Rs. 40,800/-
	Rs. 1,42,800/-

¹ **1 2017(4)TAC 673(S.C)**

² (2009) 6 SC 121

Deduction towards personal & 1/4 th	Rs. 35,700/-
	Rs. 1,07,100/-
Multiplier to be "18"	Rs. 1,07,100/-
	X 18
	Rs. 19,27,800/-
General damages	Rs. 77,000/-
	Rs. 20,04,800/-
Entitlement	

8. The respondent Nos. 1 to 5/claimants are entitled to a sum of Rs. 20,04,800/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its realization.
9. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 30,82,343/=(Rs. 25,000 + 30,57,343) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present respondent Nos. 1 to 5/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge Special Court, Paschim Medinipur in M.A.C. Case No. 311 of 2020 on proof of proper identification of the respondent Nos. 1 to 5/claimants subject to payment of ad valorem Court's fees and refund the differential

amount if any through a cheque to the learned advocate for the 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. The pending applications if any stands disposed of.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)