

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 673 of 2023

Purnima Chowdhury & Ors.

Versus

National Insurance Company Limited & Anr.

For the appellants/claimants. : Mr. Jayanta Kr. Mondal.

For the respondent nos. 1 : Mr. Rajesh Singh.

Heard & Judgment on : 1st May, 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 31.05.2018 passed by the learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track 2nd Court, Tamluk, Purba Medinipur in M.A.C. Case No. 1 of 2014.
3. The learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the grounds that the learned Tribunal had erroneously granted the rate of interest to be paid from the date of framing of the issues till the date of realization contrary to be paid from the date of filing of the M.A.C. Case No. 1/2014 till the date of the realization of the compensation. Moreover, the victim was earning Rs.5,000/- per month working as a mason as well as a vegetable vendor which was

not considered by the learned Tribunal under notional income of Rs.3,000/- was granted towards monthly income.

4. The learned Advocate representing the respondents/Insurance Company submitted in absence of oral and documentary evidence the Tribunal had rightly assessed the monthly income to be Rs.3,000/- which should not be interfered with.
5. Since the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of considering the aforementioned issues. The Tribunal did commit an error in granting the interest to be paid from the date of framing of issues which needs to be modified. The compensation is to be paid along with an interest at the rate of 6% per annum from the date of filing of the aforesaid M.A.C. Case No. 1/2014 till the date of its realization considering the monthly income of the victim to be Rs.4,000/- which in view of the prevalent fiscal index would not have been improbable.
6. 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. 4,60,000/- is modified as follows:

Monthly Income	Rs. 4000/-
Add : Future Prospect (25%)	Rs. 1000/-
Annual Income	Rs. 5,000/-
Less : 1/3 rd Personal Expenses	Rs. 60,000/-
	Rs. 20,000/-
Multiplier "13"	Rs. 40,000/-
	X 13
	Rs. 5,20,000/-

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Add : General Damages	Rs. 70,000/-
Total	Rs. 5,90,000/-
Less : Awarded by Tribunal	Rs. 4,60,000/-
	Rs. 1,30,000/-

7. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 4,60,000/-. The appellants/claimants are entitled to a further sum of Rs. 1,30,000/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization.
8. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 1,30,000/- along with 6 % per cent interest per annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order .
9. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the appellants/claimants as mentioned in the award passed by the learned District Judge, Motor Accident Claims Tribunal, Fast Track 2nd Court, Tamluk, Purba Medinipur in M.A.C. Case No. 1 of 2014 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court's fees.
10. The instant appeal is disposed of accordingly.
11. The pending applications, if any, stands disposed of.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

Srimanta, A.R.(Ct)