

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 371 of 2025

**Bajaj Allianz General Insurance Co. Ltd.
Versus
Sunita Dutta & Ors.**

For the Appellant

Insurance co.

: Mr. Rajesh Singh

For the Respondent Nos. 1 to 3
claimants

: Mr. Subhas Chandra Atta
Ms. Payel Paramanik

Heard on & 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 4th February, 2017 passed by the learned Judge, Motor Accident Claims Tribunal Redesignated Court Bakura in M.A.C. Case No. 17 of 2012.
3. An 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 occurred on 23.04.2012 at about

3.00 p.m. with the involvement of the offending vehicle being Tractor bearing registration No. WB-67A/1941 which hit the victim being a pedestrian near Narrah High School at village Makurgram whereby the offending vehicle at an exceeding speed rashly and negligently occasioned the accident resulting in the death of the victim instantaneously on the spot.

4. Learned Advocate representing the appellant/insurance company submitted that the learned Tribunal had erroneously granted the component of future prospect to the extent of 30% in case of the victim being a self-employed person falling within the age group of 40 to 50 years which should have been computed as 25%. More-over, the general damages awarded in favour of the claimants was to the extent of Rs. 1,80,000/- which should be reduced to a sum of Rs. 84,000/- with regard to the principles laid down in the judgment of National insurance company Ltd. Vs. Pranay Shetty & Anr¹.
5. The Learned Advocate representing the respondent Nos. 1 and 3/claimants opposed the submissions of the learned advocate representing the appellant/insurance company stating that the learned Tribunal after adducing oral and documentary evidence

¹ 2017(4) TAC 673(S.C.)

in its entirety had calculated the compensation awarded which should 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 appellant/insurance company, this Court restricts itself only to the extent agitated by the learned advocate representing the appellant/insurance company. The impugned judgment and order was pronounced in the year 4th February, 2017 prior to the judgment of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr. and in view of the mandatory provisions laid down in the aforesaid judgment, the impugned judgment and order passed by the learned Tribunal is required to be modified to the following extent:

Annual Income	Rs. 1,50,000/-
Deduction towards personal & 1/3 rd	Rs. 50,000/-
Future Prospect to be added(25%)	Rs. 1,00,000/-
	Rs. 25,000/-
Multiplier to be "14"	Rs. 1,25,000/-
	X 14
	Rs. 17,50,000/-
General damages	Rs. 84,000/-
Entitlement	Rs. 18,34,000/-

7. The respondent Nos. 1 to 3/claimants are entitled to a sum of Rs. 18,34,000/- along with 6% interest per annum to be paid from

the date of filing of the claim application till the date of its realization.

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 26,03,468/=(Rs. 25,000 + 25,78,468) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
9. 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 and 3/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal Redesignated Court Bakura in M.A.C. Case No. 17 of 2012 on proof of proper identification of the respondent Nos. 1 and 3/claimants subject to payment of ad valorem Court's fees within four weeks 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.
10. 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.

11. The instant appeal is disposed of accordingly.
12. The interim order if any stand vacated.
13. The pending applications if any stands disposed of.
14. The TCR be sent down to the concerned tribunal forthwith.
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.