

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1359 of 2024

**National Insurance Company Limited
Versus
Chhabirani Kamilya & Ors.**

For the Appellant : Mr. Sanjay Paul.

For the Respondents : Mr. Ashique Mondal
Mr. Shahmeraz Alam.

Heard & Judgment on : 21th April, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 11.06.2024 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, 13th Court, Alipore, South 24-Parganas in M.A.C. Case No. 631 of 2020.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants due to the death of the victim in an

accident which took place on 04.07.2020 at about 15:30 hours with the involvement of the offending vehicle being a 'Mini Truck' bearing registration no. WB- 31/2036 which approached at an exceeding speed rashly and negligently hit the victim who was stationed on the Egra-Contai Road who instantaneously suffered injuries and succumbed to the same at the hospital.

4. The Learned Advocate representing the appellant/Insurance Company submitted that the Learned Tribunal had erroneously granted a sum of Rs.48,000/- towards parental consortium and an interest at the rate of 9% per annum which was exorbitant. Moreover, the income of the victim also could not be proved.
5. The learned Advocate representing the respondents/claimants submitted that the learned Tribunal based on oral and documentary evidence justifiably assessed the compensation amount which should not be interfered with.
6. 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 agitated by the learned Advocate representing the appellant/Insurance Company. The sum of Rs.48,000/- granted towards parental consortium should be deleted which is not in accordance with the principles laid down by the Hon'ble Supreme

Court. Moreover, the interest granted at the rate of 9% per annum is to be reduced to the extent of 6% per annum.

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. 24,25,866/- is modified as follows:

Monthly Income	Rs. 15,000/-
Annual Income	X 12
	<u>Rs. 1,80,000/-</u>
Add : Future Prospects(40%)	Rs. 72,000/-

	Rs. 2,52,000/-
Less Personal Expenses (50%)	Rs. 1,26,000/-
	<u>Rs. 1,26,000/-</u>
Multiplier to be "18"	X 18
	<u>Rs. 22,68,000/-</u>
Add : Medical Expenses	Rs. 73,866/-
	<u>Rs. 23,41,866/-</u>
Add : Non pecuniary damages	Rs. 36,000/-
	<u>Rs. 23,77,866/-</u>

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.33,21,424/- as per challan filed by the learned advocate representing the appellant/insurance company.

1 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

9. The Respondents/claimants are entitled to receive the amount of Rs. 23,77,866/- at the rate of 6% per cent per annum from the date of filing of the claim application, i.e., 12.10.2020 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 respondents/claimants in equal proportion as mentioned in the impugned judgment of the Learned District Judge, Motor Accident Claims Tribunal, 13th Court, Alipore, South 24-Parganas in M.A.C. Case No. 631 of 2020 on proof of proper identification of the respondents/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 already been 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 for the accounts of the insurance company.

12. The instant appeal is disposed of accordingly.
13. The pending applications, if any, stands disposed of.
14. 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.)