

District:

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Ananya Bandyopadhyay

FMA 867 of 2023

NILIMA MAHATA & ORS.

VS

**UNITED INDIA INSURANCE COMPANY LIMITED
& ANR.**

Mr. Jayanta Kumar Mondal

... for the appellants/claimants

Mrs. Sucharita Paul

... for the respondents/claimants

Heard on : 20.08.2025

Judgment on : 20.08.2025

Ananya Bandyopadhyay J.

1. The learned advocates representing both the parties are present in Court.

2. The instant appeal had been filed against the judgment and order dated 14.06.2023 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 1st Court(in-charge) at Paschim Medinipur in MAC Case No.252 of 2021.

3. An application under Section 166 of the Motor Vehicle Act, had been filed by the claimants on account of death of the victim in an accident which occurred on 22nd February, 2021 at about 9 PM at Pirakata-Chandra Road near Milk Factory within the jurisdiction of Gurguripal Police Station with the involvement of the offending vehicle being a Motor Cycle bearing registration No.WB 34S/0265 which colluded with the Bicycle being driven by the victim which the victim was riding at an excessive speed rashly and negligently. The victim consequently received severe injuries and was transmitted to Midnapore Medical College and Hospital by the local people and thereafter shifted to NRS Medical College and Hospital on 23rd February, 2021 and succumbed to his injuries on 26th February, 2021.

4. The learned advocate representing the appellant claimant submitted that the Tribunal in spite of oral evidence adduced by the wife of the victim being the appellant/claimant that the victim had been a Driver during his lifetime earning and consider the fact to be Rs.5,000/- disregarding grant of any compensation against the category of future prospect.

5. The learned advocate representing the respondent Insurance Company submitted in absence of a driving licence being issued in favour of the deceased victim and the same being produced before the Learned Tribunal it was rightly concluded by the learned Tribunal to assess the monthly income of the victim to be Rs.5,000/-.

6. Since the occurrence of the accident, the driving license, 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 consider the point agitated by both the parties. A document marked as exhibit-13/3 as well as the exhibit-14 had been issued by the Respondent Insurance Company Income Tax Department beyond the control of either of the victim or the control the driver of the offending vehicle and such submission of the learned advocate representing the appellant/Insurance Company cannot be accepted. In view of the above observation the impugned judgment and order passed by the Learned Tribunal is not interfered with.

7. Heard the rival contention of the learned advocate representing all the parties. The Hon'ble Supreme Court in Reliance Life Insurance Company Ltd. & Anr. vs. Jaya Wadhwani and Branch Manager, Reliance Life Insurance Company Ltd. vs. Usha Soni had, inter alia, observed that:-

“ In the present appeals, we do not find any such issue of back dating but the date of issuance of the policy would be the relevant date for all purpose are and not the date of proposal or the date of issuance of the receipt. In view of the above, the stand taken by the appellant is approved. The impugned orders are thus liable to be set aside.”

8. The following the principle guidelines as enumerated in the decision of the Hon'ble Supreme Court in Pranay Shetty,

9. The claimants are entitled to a compensation in the category of future prospect. The accident occurred in the year 2021 and consider the fiscal index prevalent the monthly income of the victim can be considered to be Rs.7,500/-.

10. The impugned judgement and order is modified to the following extent.

11. In view of the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.¹ the appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

12. Urgent Photostat Certified copy of this Judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Ananya Bandyopadhyay, J.)

¹ 2025 INSC 361