

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1037 of 2024

**National Insurance Company Limited
Versus**

Moslema Begam & Ors.

With

COT 137 of 2024

Moslema Begam & Ors.

Vs.

National Insurance Company Limited & Anr.

For the appellant/insurance Co. : Mr. M.P. Chakraborty
Ms. Ratnadipa Karmakar

For the respondent No.1 to 2/claimants :Mr. Jayanta Mondal
Mr. Sayantan Rakshit

Heard & Judgment on : 30th January, 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 27th March, 2024 passed by the Learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track Court-, Durgapur in M.A.C. Case No. 10 of 2019.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants claiming compensation for the death of the victim in an accident which occurred on 22.11.2018 at about 7.00 p.m. with the involvement of the offending vehicle being one Maruti Van bearing Registration No. WB-42AA/5351 which proceeded at an exceeding speed, rashly and negligently and hit the victim from behind on Bankura Durgapur pitch road. The victim was shifted to

the Super Specialty Hospital, Barjora having sustained severe injuries and was declared as "**brought dead**".

4. The Learned Advocate representing the appellant/insurance company submitted that the victim was a student of class 10 and the Learned Tribunal disregarding the fact of the student being unemployed considered the sum of Rs. 7776/- to be his monthly income on the basis of minimum rates of wages fixed for unskilled employees issued by the Office of the Labour Commissioner, Government of West Bengal vide its circular dated 22.06.2018.
5. The Learned Advocate representing the respondent Nos.1 and 2/claimants submitted to have filed a cross-objection being COT 137 of 2024 seeking enhancement of the monthly income considered by the Learned Tribunal equating the same with unskilled employee. The Learned Advocate representing the respondent Nos. 1 and 2/claimants further submitted that the Learned Tribunal had erroneously granted filial consortium of Rs. 80,000/- which should be deducted since the student was a minor and obviously a bachelor.
6. Since the occurrence of the accident, insurance policy, the driving licence, route permit etc and other ancillary issues are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of considering the monthly income of the victim. The victim being a student at the time of his demise should have been unskilled without any employment, and, therefore, a sum of Rs. 227/- (per day) with food is considered by this Court to be granted as the notional income in view of the notification issued by the State Government concerning Minimum Wages with effect from 1st July, 2018 to December, 2018.

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 & Anr²*, the impugned award of Rs. 12,85,724/- is modified as follows:

Monthly Income (227x30)	Rs. 6810/-
Annual Income	Rs. 81,720/-
Future Prospect to be added(40%)	Rs. 32,688/-
	Rs. 1,14,408/-
	Rs. 57,204/-

Less 1/2 nd deduction	Rs. 57,204/-
Multiplier to be “18”	X 18
	Rs. 10,29,672/-
Add conventional Head	Rs. 36,000/-
Loss of Estate Rs. 15,000/-	Rs. 10,65,672/-
Funeral Exp. Rs. 15,000/-	

	Rs. 30,000/-
Add : 20%	Rs. 6,000/-

	Rs. 36,000/-
Entitlement	Rs. 10,65,672/-

7. It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company had deposited entire awarded amount along interest at the rate of 6% per annum before the office of the Learned Registrar General, High Court at Calcutta.
8. The respondent Nos. 1 and 2/claimants are entitled to receive the balance amount of Rs. Rs. 10,65,672/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
9. The office of the Registrar General, High Court, Calcutta is to calculate the award passed by this Court today together with interest as aforesaid and shall also encash the cheques and thereafter disburse the same to the present respondent No.1 and

2/claimants in equal proportion as mentioned in the award passed by the Learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track Court-, Durgapur in M.A.C. Case No. 10 of 2019 within six weeks from the date of passing of this order, on proof of proper identification of the respondent Nos.1 to 2/claimants subject to payment of ad valorem Courts fees and refund the balance amount if any through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

10. The interest accrued on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which was further deposited in the Nationalized Bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the balance sum of interest to be refunded to the Insurance Company through distinct account payee cheques.
11. The instant appeal and COT application are disposed of accordingly.
12. The interim order if any stand vacated.
13. The 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.

c.m.Ar. ct.

(Ananya Bandyopadhyay, J.)