

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1033 of 2024

**United India Insurance Company Limited
Versus**

Srabani Nag & Ors.

With

COT 138 of 2024

Srabani Nag & Ors.

Vs.

United India Insurance Company Limited & Anr.

For the Appellant/Insurance
Company

: Mr. M.P.Chakrabarty,
Mr. R.D.Karmakar, Ms.
Ms. Deyasini Chakrabarti

For the claimants/Respondents/
Cross-objections

: Mr. Saswata Bhattacharyya

Heard & Judgment on

: 11th September, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 25th April, 2024 passed by the Learned Motor

Accident Claims Tribunal-cum-Additional District Judge, 8th Court, Alipore, South 24-Parganas in M.A.C.C. Case No.4 of 2015.

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 15.12.2014 at about 6:30 hours near a shop situated at 11/7, Bijoygarh, Rajpur Road(East) within the jurisdiction of Jadavpur Police Station with the involvement of a vehicle being a school bus bearing registration No.WB-19D/1503 which approaching at an excessive speed rashly and negligently dashed the victim who had been a pedestrian resulting in severe injuries incurred by him. The victim subsequently succumbed to his injuries at RSV Hospital Private Limited, Kolkata -33 on 23rd December, 2014 at about 1:02 p.m.
4. The Learned Advocate representing the appellant/Insurance Company submitted the Learned Tribunal to have considered the multiplier to be 15 instead of 14 without considering the age of the victim to be 45 years on the date of accident. Moreover, there was no valid route permit issued in favour of the offending vehicle. The number of the claimants being three the Learned Tribunal granted the compensation after deducting 1/3rd of the annual income towards personal expenses instead of 1/4th. Moreover, the element of future prospect was granted to the

extent of 30% which should be 25% since the nature of employment of the deceased/victim was not specified.

5. The learned Advocate representing the respondents/claimants submitted to have file a cross-objection being COT 138 of 2024 since the Learned Tribunal did not grant proper amount of compensation towards general damages in accordance with the principle laid down in the decision of National insurance company Ltd. Vs. Pranay Shetty & Anr1.
6. Considered the rival contentions of the respective parties.
7. 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 appellants/Insurance Company.
8. The deposition of P.W.2 stated the victim to have been an employee of Star Security and Detective Agency, being a Company employing 2000 employees registered under the concerned authority with regard to the documents issued in its favour. It was further submitted that the Company had an accountant department which was supervised by the Accountant. It was further submitted that the deceased/victim could have served till the age of 60 years if he was alive. Accordingly, the nature of employment of the victim should be assessed to be

permanent in its effect. Accordingly, the element of future prospect should have been considered to the extent of 30%. The evidence of OPW.1, being the authorized person of Regional Transport Authority, South 24-Parganas in the cross-examination revealed that *"It is a fact that permit can be renewed with retrospective effect with payment of fine and penalty. There is no limitation to renew the permit"* Since the documents placed before the Learned Tribunal as per Exhibit B, the route permit issued in favour of the owner of the offending vehicle was valid till 6.11.2011. However, whether the route permit was subsequently renewed or was not specifically mentioned before the Learned Tribunal. Therefore, it cannot be indubitably stated that the owner of the offending vehicle did not possess a valid route permit. Considering the age of the victim to be 45 years on the date of the accident, a multiplier of 14 should have been considered instead of 15. General damages should have been awarded in accordance with the principles prescribed by the Hon'ble Apex Court in Pranay Shetty & Anr.

9. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr² and

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

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

Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.³ The impugned award of is modified as follows:

Annual Income (Rs. 7,354 x 12)	Rs. 88,248/-
Less 1/3 rd	Rs. 29,416/-
Future Prospect 30%	Rs. 58,832/-
Multiplier to be "14"	Rs. 76,481/-
	X 14
	Rs.10,70,742.4/
Loss of Estate	Rs. 18,000/-
Funeral Expenses	Rs. 18,000/-
Loss of consortium	Rs. 48,000/-
Entitlement	Rs. 11,54,742/

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 20,74,795/=(Rs. 25,000 + 20,49,795) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.

11. The Learned Advocate representing the respondent Nos. 1 to 43/claimants are entitled to receive the amount of Rs. 11,54,742/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 12.01.2015 till the date of actual realization.

12. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the

³ (2009) 6 SC 121

entire awarded amount so deposited with accrued interest directly to the bank accounts of the present respondent Nos. 1 to 3/claimants as mentioned in the impugned judgment and award passed by the Learned Motor Accident Claims Tribunal-cum-Additional District Judge, 8th Court, Alipore, South 24-Parganas in M.A.C.C. Case No.4 of 2015 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees 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. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

13. The instant appeal and cross objection are disposed of accordingly.
14. The pending application, if any, stands disposed of.
15. The interim order if any stand vacated.
16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)