

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1505 of 2024

**The National Insurance Company Limited
Versus
Rashida Begum & Ors.**

With

COT/4/2025

**Rashida Begum
Versus
The National Insurance Company Limited & Anr.**

For the Appellant : Mrs. Sucharita Paul

For the Respondents : Mr. Ashique Mondal
Mr. Arup Kumar Bag.

Heard & Judgment on : 20th March, 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 06.07.2024 passed by the Learned Additional District

Judge, Motor Accident Claims Tribunal, 3rd Court, Alipore, South 24-Parganas in M.A.C. Case No. 38 of 2013.

3. An application under Section 166 of the Motor Vehicles Act had been filed due to the death of the victim in an accident which took place on 30.10.2012 at about 15:50 hours with the involvement of the offending vehicle being a 'Trailor' bearing registration no. NL-01D-7051 which at an exceeding speed rashly and negligently approached towards Century Ply C.F.C. through Hide Road Extension and hit a scooter which the victim was riding at the relevant point of time. The victim was declared "dead" at the S.S.K.M. Hospital.
4. The Learned Advocate representing the appellant/Insurance Company submitted that the valid driving licence to have been issued in favour of the driver of the offending vehicle was neither seized nor produced before the learned Tribunal as aforesaid. Moreover, an amount of Rs.1,65,000/- was granted towards general damages instead of Rs.84,000/- and the interest at the rate of 7.5 per cent per annum to have been directed to be paid on the compensation amount were excessive .
5. The learned Advocate representing the respondents/claimants had filed a cross-objection claiming for enhancement of the monthly income of Rs.3,000/- as assessed by the learned Tribunal in the impugned Judgment and Order.

6. Since the occurrence of the accident, involvement of the offending vehicle, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of issues raised by the learned Advocates representing the respective parties as aforesaid.
7. The monthly income of the victim considering the fiscal index prevalent at the relevant date of accident could be Rs.4,000/-.
8. 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. 5,08,200/- is modified as follows:-

Monthly Income	Rs. 4,000/-
Annual Income	X 12
	Rs. 48,000/-
Add : Future Prospect (25%)	Rs. 12000/-

	Rs. 60,000/-
Less 1/3 rd Personal Expenses	Rs. 20,000/-
	Rs. 40,000/-
Multiplier to be "13"	X 13
	Rs. 5,20,000/-
Add : Non pecuniary damages	Rs. 84,000/-
	Rs. 6,04,000/-

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

² (2009) 6 SC 121

9. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.8,68,577/- as per challan filed by the learned advocate representing the appellant/insurance company.
10. The Respondents/claimants are entitled to receive the amount of Rs. 6,04,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
11. In case the appellant/Insurance Company succeeds to prove after adducing proper evidence that the driver of the offending vehicle did not possess a valid driving licence then the appellant/Insurance Company will be at liberty to recover the amount of compensation paid to the claimants from the owner of the offending vehicle.
12. 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 as mentioned in the impugned judgment of the Learned Additional Judge, Motor Accident Claims Tribunal 3rd Court, Alipore, South 24-Parganas in M.A.C. Case No. 38 of 2013 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.

13. 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.
14. The instant appeal is disposed of accordingly.
15. The pending applications, if any, stands disposed of.
16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)