

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA No.1312 of 2024
Basanti Pujari & Ors.

vs.

IFFCO TOKIO General Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

... for the appellants/claimants

Mr. Rajesh Singh

... for the respondent No.1/insurance company.

Heard on & Judgment on : 8th July, 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the appellants/claimants as well as respondent No.1/insurance company are present in Court.
2. The instant appeal had been preferred by the appellants/claimants against the judgment and award dated 20th June, 2024 passed by the learned Judge, Motor Accident Claims Tribunal, cum Additional District Judge, 1st Court, Paschim Medinipur in M.A.C. Case No. 300 of 2021.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of death of the victim in an accident which occurred on 05.03.2021 at about 11/11.30 p.m. near Kuyapur High School by the side of Chandrakona Kuyapur Pitch road within the jurisdiction of Chandrakona police station with the involvement of the

offending vehicle being a (truck) bearing registration No. WB-33D/7971 which approaching at an excessive speed rashly and negligently collided with a Maruti van and thereafter hit the victim being a passenger resulting in his death on the way to the hospital.

4. The Learned Advocate representing the appellants/claimants submitted the learned Tribunal had erroneously considered the monthly income of the victim to be Rs. 6000/- contrary to the claim of Rs. 12,000/- to Rs. 15,000/- per month mentioned in the claim application.
5. The Learned Advocate representing the respondent No.1/insurance company submitted that in absence of corroborative oral and documentary evidence the learned tribunal was justified in granting the compensation award which should not be interfered with.

6. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of issues agitated by the respective parties. The accident occurred in the year 2021 it is not possible to prove the income of a "Mason" through documentary evidence and the assertion on the part of the P.W.1 being the widow of the victim on an affidavit can be considered to be true. Considering the fiscal index prevalent in the year 2021 the monthly income of Rs. 8000/- earned by the deceased victim will not be improbable.

7. In view of 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. 10,85,000/- is modified as follows:

Monthly Income	Rs. 8,000/-
Future Prospect to be added(40%)	Rs. 3,200/-
	Rs. 11,200/-
Annual Income(Rs. 11,200 x 12)	Rs. 1,34,400/-
	Rs. 44,800/-
1/3 rd Deduction	-----
Personal Expenses	Rs. 89,600/-
	X 15
	Rs. 13,44,000/-
Multiplier to be "15"	Rs. 84,000/-
General Damages	Rs. 14,28,000/-
	Rs. 10,85,000/-
Less Award	Rs. 3,43,000/-
Entitlement	

8. The learned advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 10,85,000/-. The appellants/claimants are entitled to receive a sum of Rs. 3,43,000/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its actual realization. In view of the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.³ the appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants

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

² (2009) 6 SC 121

at the office of the learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

9. The Learned Advocate representing the respondent No.1/insurance company is to deposit the balance sum of Rs. 3,43,000/- along with at the rate of 6% interest per annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within two months from the date of passing of this order.
10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disbursed the same directly bank accounts of the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, cum Additional District Judge, 1st Court, Paschim Medinipur in M.A.C. Case No. 300 of 2021 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court's fees.
11. The instant appeal is disposed of accordingly.
12. Copy of the order be sent to the Department as well as concerned Tribunal for information.

c.m.

(Ananya Bandyopadhyay, J.)