

Form No. J(2)
DL-159

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**FMA 484 of 2024
CAN 2 of 2024
National Insurance Company Limited
Versus
Reshma Khatun @ Rashma Khatun & Ors.**

For the Appellant : Sanjay Paul
For the Respondent Nos. 1 to 4 : Mr. Subrata Bhattacharya
Heard & Judgment on : 11th September, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent No. 1 to 4/claimants are present in Court.
2. The instant appeal had been filed against the judgment and award dated 17th August, 2023 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 404 of 2022.
3. An application Under Section 166 of the of the Motor Vehicles Act had been filed by the claimants on the account of the death of the

victim in an accident which occurred on 23rd June, 2022 at about 3.45 at Nalhati Murarai High Way near Diha Panchayet Office within the jurisdiction of Nalhati Police Station District Birbhum with the involvement of the offending vehicle being a Tata Indica V2 bearing registration no. WB-54B/8500 which proceeding at an excessive speed, rashly and negligently clashed with the victim who subsequently succumbed to his injuries at Rampurhat Medical Collage and Hospital.

4. The Learned Advocate representing the appellant/insurance company submitted that the complaint lodged at the initial stage did not mention the number of the offending vehicle which after a lapse of two months appear to have been seized by the investigating agency as per the seizure list which indicated false implication of the same. The Learned Tribunal erroneously granted the compensation on the basis of monthly income to the extent of Rs. 10,000/- in accordance with the deposition of the Pradhan of the Gram Panchayat without authority to issue the same. Moreover the father of the victim was not solely dependent on the income of the deceased victim and the Learned Tribunal had deducted 1/4th of the annual income towards personal expenses instead of 1/3rd. Moreover the Learned Tribunal had granted general damages to the extent of 1,20,000/- contrary to

the principles laid down in the decision of the Hon'ble Supreme Court National insurance company Ltd. Vs. Pranay Shetty & Anr¹.

5. The Learned Advocate representing the respondent No.1 to 34/claimants submitted that P.W.3 being a co worker of the deceased victim corroborated the fact that the victim earned Rs. 10,000/- per month. Moreover, the offending vehicle had been seized under the seizure list which should not be disputed.
6. Since the occurrence of the accident, the Insurance policy, etc. and other ancillary issues 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 Learned Advocates representing the respective parties. The charge-sheet being the document marked as Ext. 2 and the seizure list marked as Ext. 3 revealed the seizure of the offending vehicle as well as the arrest of the driver of the offending vehicle who had been cited an accused in the charge-sheet which prima facie established the involvement of the offending vehicle in the occurrence of the accident. The P.W.4 being the Pradhan of the Gram Panchayat had no authority to issue the salary certificate since the deceased victim did not belong to his locality. During his cross examination P.W.4 Pradhan as aforesaid stated "*I have heard about the income of Raju Sk. But he has not shown any*

document in respect of his income. It is not possible for me to say the income of every person who reside under the Paikpara G.P."

The deposition of P.W.4 both being the unauthorized to issue any salary certificate as well as a person not conversant with the identity as well as the monthly income to have been disbursed in favour of the deceased victim cannot be accepted. The P.W.3 claiming to be a co worker jointly working with the victim in his cross examination stated "*I do not get work throughout the month. As we jointly worked so I can say when the victim used to get masonry work. I cannot say the date when Raju died even I cannot say the dates where he worked immediate before his death*". The evidence adduced by P.W.3 before the Learned Tribunal had been vague and inconsistent. It is not specifically mentioned as the number of days the victim used to work earning daily wages a mason earning Rs. 500/- per day for a period of 20 days in a month would be Rs. 10,000/- per month. The number of days throughout the month on which the victim used to work as a mason had not been specified. However, considering the fiscal index in the monthly income can be assessed at Rs. 8000/- per month. The deposition of P.W.1 as well as application filed under Section 166 of the Motor Vehicles Act did not categorically mentioned the father of the victim to have been wholly dependent on the income of the same. It had only mentioned the

father of the victim along with other claimants had been the legal heirs. Under such circumstances 1/3rd of the annual income of the victim should be deducted towards personal expenses. The respondents/claimants are entitled to a sum of Rs.70,000/- towards general damages instead of Rs.1,20,000/-.

7. The impugned award is modified as follows:

Monthly Income	Rs. 8000/-
Annual Income (Rs. 8000 x 12)	Rs. 96,000/-
	Rs. 38,400/-
Future Prospect to be added(40%)	Rs. 1,34,400/-
	Rs. 44,800/-
Personal Expenses (1/3rd)	Rs. 89,600/-
	X 17
Multiplier to be "17"	Rs.15,23,200/
General Damages	Rs. 70,000/-
Entitlement	Rs.15,93,200/

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 25,26,059/=(Rs. 25,000 + 25,01,059) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.

9. The Learned Advocate representing the respondent Nos. 1 to 4/claimants are entitled to receive the amount of Rs. 15,93,200/- at the rate of 6% per cent per annum from the date of filing of

the claim application i.e. 04.12.2022 till the date of actual realization.

10. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the bank accounts of the present respondent Nos. 1 to 4/claimants as mentioned in the impugned judgment and award passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 404 of 2022 on proof of proper identification of the respondent No.1 to 4/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.
11. The instant appeal and connected application are disposed of accordingly.
12. The pending application, if any, stands disposed of.
13. The interim order if any stand vacated.

14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)