

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 87 of 2025

Tapan Dandapat & Ors.

Versus

The National Insurance Co. Ltd & Anr.

For the appellants/claimants. : Mr. Amit Ranjan Roy

For the respondent nos. 1 : Mr. Sanjay Paul

Heard & Judgment on : 14th 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 6th July, 2023 passed by the learned Judge, Motor Accident Claims Tribunal and Additional District & Sessions Judge, Fast Track 3rd Court, Sadar, Paschim Medinipur in M.A.C. Case No. 452 of 2021.
3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed on account of accident which occurred on 4th July, 2021 at about 3.00 p.m. near Chormundi Chowk within the jurisdiction of Beliabera Police Station District, Jhargram, with the involvement of the offending vehicle being a truck bearing registration No. WB-29/2743 which proceeded at an exceeding speed, rashly and negligently hit the victim who suffered severe injuries on her head and body and was admitted at Gopiballavpur Hospital wherein she was declared to have expired.

4. The Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal erroneously granted the monthly income of the victim to be Rs. 3000/- disregarding her avocation as a tailor earning a sum of Rs. 10,000/- in the year 2021.
5. The Learned Advocate representing the respondent No.1/insurance company submitted that the Learned Tribunal was incorrect in granting the general damages to the extent of Rs. 1,32,000/- contrary to the mandatory amount of Rs. 70,000/- in terms of the decision of the Hon'ble Supreme Court decision in National insurance Co. Ltd. Vs. Pranay Sethi & Ors.
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 respondent No.1/insurance company, this Court restricts itself only to the extent to determine the adequate monthly income of the victim. The victim lady had been a tailor in rural background and could not produce the documents evidencing her avocation and the same cannot be expected. More-over, her yearly income was also not taxable. It would not be improbable for a lady to work as a tailor and to earn a Rs. 7,500/- per month in the year 2021 considering the fiscal index.
7. 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. 6,69,000/- is modified as follows:

Monthly Income	Rs. 7500/-
Annual Income	Rs. 90,000/-

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

² (2009) 6 SC 121

Future Prospect to be added(40%)	Rs. 36,000/-
	Rs. 1,26,000/-
1.3 rd Deduction Personal Expenses	Rs. 42,000/-

	Rs. 84,000/-
	X 15
Multiplier to be “15”	Rs. 12,60,000/-
	Rs. 77,000/-
General Damages	Rs. 13,37,000/-
Less Award	Rs. 6,69,000/-
Entitlement	Rs. 6,68,000/-

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 6,69,000/-. The appellants/claimants are entitled to a sum of Rs. 6,68,000/- along with 6% interest per annum to be paid from the date of filing of the application i.e. 12.08.2021 till the date of its actual realization.
9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 6,68,000/- along with 6 % per cent interest per annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within six weeks 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 to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal and Additional District & Sessions Judge, Fast Track 3rd Court, Sadar, Paschim Medinipur in M.A.C. Case No. 452 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. The pending applications if any stands disposed of.

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

c.m.

(Ananya Bandyopadhyay, J.)