

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 321 of 2025

**National Insurance Company Limited
Versus
Mitu Paria & Ors.**

With

COT/49/2023

Mitu Paria & Ors.

-Vs.-

National Insurance Company Limited & Anr.

For the Appellant	:	Ms. Sucharita Paul
For the Respondent No.1 to 6	:	Mr. Jayanta Kumar Mondal Mr. Sayantan Rakshit
Heard & Judgment on	:	3 rd September, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent No.1 to 6/claimants are present in Court.
2. The instant appeal had been filed against the judgment and award dated 20th July, 2022 passed by the Learned Judge, Motor

Accident Claims Tribunal cum Additional District Judge, FTC-I, Paschim Medinipur in M.A.C. Case No. 264 of 2018.

3. The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal on the ground of false implication of the same since the complaint was lodged after 28 days of the occurrence of the accident. Moreover, the income of the victim was calculated exclusively on the ground of the Income Tax Return filed which had not been corroborated by any other document. The Learned Advocate representing the appellant/insurance company further submitted the route permit issued against the offending vehicle was invalid.
4. The Learned Advocate representing the respondent No.1 to 6/claimants submitted to have filed a cross objection being COT 49 of 2023 on the ground that the Learned Tribunal instead of 25% compensation towards element of future prospect had granted 20% which had been erroneous considering the age of the victim to have been 43 years of age at the time of his death in the accident.
5. Since the occurrence of the accident, the driving license, 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 document marked as Ext.1 being the complaint delineated the reason for delay in filing the same owing to the time being consumed towards the medical treatment of the victim as well as taking into account the care given to the minor son which had been acceptable reasonably in the facts and circumstances of the case. Secondly, the Income Tax Return is to be believed to assess the annual income of the victim being a legal document which cannot be negated or refuted. Moreover, the evidence of OPW 1 mentioned that the permit of the offending vehicle was renewed up to 21.06.2022 covering the period of accident and the said permit to have been issued being PSTP permit No. 275 in the name of one Debasish Das and Koushik Das being the owner of the offending vehicle and in the aforesaid facts and circumstances the contention of the Learned Advocate representing the Appellant/insurance company cannot be considered.

6. The impugned award of Rs. 76,43,600/- is modified as follows:

Yearly Income	Rs. 2,20,800/-
Future Prospect to be added(25%)	Rs. 55,200/-
	<u>Rs. 2,76,000/-</u>
Personal Expenses (1/4 th)	Rs. 69,000/-
	<u>Rs. 2,07,000/-</u>
Multiplier to be "14"	x 14
	<u>Rs.28,98,000/-</u>
General Damages	Rs. 84,000/-
Entitlement	<u>Rs.29,82,000/-</u>

7. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 36,89,766/=(Rs. 25,000 + 36,64,766) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company. The Learned Advocate representing the appellant/insurance company is to deposit the remaining amount, if any, before the office of the Learned Registrar General, High Court at Calcutta as expeditiously as possible.
8. The Learned Advocate representing the respondent Nos. 1 to 6/claimants are entitled to receive the amount of Rs. 29,82,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
9. 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 6/claimants as mentioned impugned judgment and award passed by Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, FTC-I, Paschim Medinipur in M.A.C. Case No. 264 of 2018 on proof of proper identification of the respondent No.1 to 4/claimants subject to payment of ad valorem Court fees. 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.

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

(Ananya Bandyopadhyay, J.)

c.m. Ar. Ct.