

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

IA No.:CAN/2/2025

in

FMA 1476 of 2024

The Oriental Insurance Company Limited

Versus

Baren Routh & Anr.

With

COT/10/2025

Baren Routh

Versus

The Oriental Insurance Company Limited

For the appellants/Insurance Company : Mrs. Sucharita Paul

For the respondent nos. 1 : Mr. Amit Ranjan Roy

Heard & Judgment on : 10th July, 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 12.08.2024 passed by the Learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, 6th Court, Paschim Medinipur in M.A.C. Case No. 484/2010.

3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed by the claimants for an accident which occurred on 09.03.2006 at about 02:00 p.m. near Rambag on Haldia Mecheda pitch road with the involvement of the offending vehicle being a bus bearing registration No. WB-11A/1609 collided with another bus bearing registration no. WB-29/2089 approaching from the opposite direction consequent to which the victim sustained injuries and was shifted to Basulia B.P.H.C. and thereafter transferred to Egra S.S. Hospital for treatment.
4. The Learned Advocate representing the appellants/Insurance Company submitted that disability certificate was issued on 2nd February, 2010 approximately after four years from the date of the occurrence of the accident. Moreover, the extent of injury to be 80% with regard to the injury sustained by the victim could not be relied upon for want of nexus between the nature of the injury sustained by the victim as described in the disability certificate as well as the impact of the accident.
5. The Learned Advocate representing the respondents/claimants submitted to have filed a cross-objection exclusively on the ground of failure on the part of the Learned Tribunal to assess the component of future prospect.

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 of determine the above-mentioned issues.
7. Considered the rival contention of the respective parties.
8. The document marked as Exhibit – 3 being the charge-sheet described the nature of accident with the involvement of the vehicles as aforesaid which collided with each other resulting in the accident which was further endorsed by the seizure of both the vehicles under the seizure list as mentioned in the charge-sheet marked Exhibit-3. The document marked as Exhibit- Y had been issued by the office of the Medical Superintendent-cum-Vice Principal, Midnapur Medical College & Hospital. The Tribunal has considered the disability certificate so issued by the Government Hospital and this Court is not inclined to interfere with the observation of the Medical Board constituted by a Government Hospital to reduce the extent of disability. The impugned Judgment and order was pronounced on 12th August, 2024 and accordingly the Learned Tribunal should have considered the aspect of future prospect. The compensation towards pain and suffering is increased to the extent of Rs.2,00,000/-.

9. 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. 5,00,000/- is modified as follows:

Monthly Income	Rs. 3000/-
Future Prospect to be added(40%)	Rs. 1,200/-
	Rs. 4,200/-
	X 12
Annual Income	
	Rs. 50,400/-
Multiplier to be "16"	X 16
80% Loss of earning capacity	Rs. 8,06,400/-
	X 80%
	Rs. 6,45,120/-
Add : Medical Expenses	Rs. 19,200/-
Pain & Sufferings	Rs. 6,64,320/-
	Rs. 2,00,000/-
Total Compensation	Rs. 8,64,320/-

10. The Learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.9,09,315/- as per challan filed by the Learned advocate representing the appellant/insurance company.

11. The respondents/claimants are entitled to a sum of Rs. 8,64,320/- along with 6% interest per annum to be paid from the

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

² (2009) 6 SC 121

date of filing of the application till the date of its actual realization.

12. The Learned Advocate for the appellant/insurance company is to deposit the balance sum along with 6 % interest per annum from the date of filing of the claim application till the date of its actual realization before the office of the Learned Registrar General, High Court, Calcutta within three months from the date of passing of this order.
13. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the Bank accounts of the respondents/claimants in equal proportion as mentioned in the award passed by the Learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, 6th Court, Paschim Mednipur in M.A.C. Case No. 484/2010 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court's 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.
14. The instant appeal is disposed of accordingly.

15. The pending applications, if any, stands disposed of.
16. The TCR be sent down to the concerned Tribunal forthwith.
17. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

Srimanta, A.R.(Ct)