

Form No. J(2)

Item No. DL / 195

c.m. . A.R. (CT)

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

(Appellate Side)

Present: The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No.195 of 2024

Mani Shikari & Ors.

Vs.

The Oriental Insurance Co. Ltd. & Anr.

For the Appellant : Mr. Jayanta Kumar Mondal

For the Respondent : Ms. Sucharita Paul

Heard & Judgment On : 22nd September, 2025.

Ananya Bandyopadhyay, J.:

1. Both the Learned Advocates representing the parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 31st May, 2021 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, Fast Track Court-I, Paschim Medinipur in Motor Accident Claim Case No. 387 of 2021.

3. The Learned Advocate representing the appellants/ claimants submitted to have filed the instant appeal on the ground that the Learned Tribunal had considered the monthly income of the victim to be Rs. 6000/- instead of Rs. 12,000/- as mentioned in the claim application. The victim had been a 'mason' engaged in day to day work which entitled him to a monthly income of the victim of Rs. 12,000/-. It was further submitted that the age of the victim on the date of the accident was 32 years and the Learned Tribunal had erroneously granted future prospect to the extent of 10% instead of 40%. The general damages contrary to the principles of the decision of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr. had granted general damages to the extent of Rs. 20,000.
4. Learned Advocate representing the respondent No.1/ Insurance Company submitted that the Learned Tribunal in absence of corroborative, oral and documentary evidence had rightly considered the monthly income of the victim to be Rs. 6000/-. It was further submitted that the Learned Tribunal had granted interest at the rate of 6.5% which had been excessive.
5. Considered the submissions of the Learned Advocates representing both the parties.
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 points agitated by the Learned Advocates representing the respective parties. The document marked as Ext. 7 mentioned the date of birth of the victim to be 23.05.1989. Accordingly, the age of the victim to be 32 years, therefore, the element of future prospect should have been considered to the extent of 40% instead of 10%. The general damages should have been granted to the extent of Rs. 77000/- instead of Rs. 20,000/-. In absence of oral and documentary evidence only on the basis of the affirmation by the claimants the monthly income of the victim to the extent of Rs. 7,500/- working as a 'mason' will not be improbable.

7. The impugned judgment and order is modified to the following extent.

Monthly Income	Rs. 7,500/-
Future Prospect (40%)	Rs. 3000/-
	<u>Rs. 10,500/-</u>
Annual Income	x 12
	<u>Rs. 1,26,000/-</u>
Multiplier '16'	X 16
	<u>Rs. 20,16,000/-</u>
Less 1/4 th personal expenses	<u>Rs. 5,04,000/-</u>
	<u>Rs. 15,12,000/-</u>
Add General Damages	<u>Rs. 77,000/-</u>
	<u>Rs. 15,89,000/-</u>
Already Paid	<u>Rs. 9,70,400/-</u>
	<u>Rs. 6,18,600/-</u>

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 9,70,400/-. The

appellants/claimants is entitled to a sum of Rs. 6,18,600/- along with interest at the rate of 6 per cent per annum to be paid from the date of filing of the claim application i.e. 20.07.2021 till the date of realization.

In view of the observation of the Hon'ble Supreme Court in **Parminder Singh Vs. Honey Goyal & Ors.**¹ the appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the Learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 6,18,600/- along with interest as aforesaid before the office of the Learned Registrar General, High Court at 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 disburse the same directly to the bank account of the present appellants/claimants as mentioned in the impugned judgment and order passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, Fast Track Court-I, Paschim Medinipur in Motor Accident Claim Case No. 387 of 2021 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* court fees.
11. The instant appeal is disposed of accordingly.
12. The pending applications, if any, stands disposed of.

¹ 2025 INSC 361

13. The Trial Court Records 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.)