

Form No. J(2)

District: 24 PARGANAS(SOUTH)

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present :

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1035 of 2025

ARATI CHAKRABORTY & ORS

VS

NATIONAL INSURANCE CO. LTD. & ANR

Mr. L. M. Ghosh

Mr. Amarendra Nath Hazra

... for the appellant/ Claimants

Mr. Rajesh Singh

... for the respondents/Insurance Company

Heard on : 12.09.2025

Judgment on : 12.09.2025

Ananya Bandyopadhyay J.

1. The Learned advocates representing both the parties are present in court.
2. The instant appeal had been filed against the judgment and order dated 05.10.2007 passed by the Learned Judge, 10th Court of Additional District Judge at Alipore, in MAC Case No.141 of 2003.
3. An application under Section 166 of the Motor Vehicle Act, had been filed by the claimants due to death of the victim in an accident which occurred on 07.11.2022 at about 18:15 PM in front

of Tara Sankar Hotel in Village of Sorishadighi within jurisdiction of Kotalpur Police Station on 07.11.2002 with the involvement of the offending vehicle being a Mini Truck bearing registration No. WB 03A-C-3484 which approached at an excessive speed rashly and negligently clashed the victim who suffered severe injuries and expired within few hours at Kotalpur Hospital.

4. The Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal on the ground that the Learned Tribunal had erroneously considered the multiplier to be '8' instead of '9' without considering the age of the victim to be 59 years on the date of accident. It was further submitted that the victim had been Government servant being employer at the Health Department and accordingly future prospect to the extent of 15% should have been granted considering his age of 59 years. Moreover, a sum of Rs.8367/- was considered to be monthly income of the victim instead of Rs.10,985/- minus Rs.110/- accountable for professional tax.

5. The Learned Advocate representing the respondent No.1/ Insurance Company submitted that the Learned Tribunal taking into account each and every aspect has rightly assessed the compensation.

6. Considered the rival submissions of the Learned Advocates representing the respective parties.

7. Since the occurrence of the accident, the driving license, the route permit 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 consider the point agitated by both the parties. The Learned Tribunal had considered the age of the victim to be 59 years based on the submission of the Learned Advocate appearing on behalf of the Insurance Company before the same that the victim was in service only one year more and the last pay certificate in TR Form No.17/West Bengal Form No.2508 vide memo no.24 dated 17.02.2003 issued by the Block Medical Officer of Health, Radhanagar DPHC, Bankura mentioned the gross salary to be Rs.10,985/-. It also specified certain deductions on account of the GPF to be Rs.2,500/-, Rs.2823/- towards HRA, Rs.100/- towards CA, Rs.8/- towards General Insurance and Rs.110/- towards P. Tax. The Learned Tribunal should have considered the deduction of Rs.110/- being the professional tax from the gross salary instead of amount deducted towards GPF, GIS, CA, MA, HRA etc. which otherwise cumulatively formed a part of his salary and emoluments. The Learned Tribunal should have granted the compensation towards the element of future prospect to the extent of 15% since the victim was 59 years and had been in service of a Government organization. The Learned Tribunal had granted a sum of Rs.9500/- towards general damages which should be enhanced in view of the principle laid down by the Hon'ble Supreme Court in the decision of the observations of the Hon'ble Apex Court Pranay in *National*

insurance company Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.², the impugned award of Rs. ,5,48,252.00/- is modified as follows:

Monthly Income	Rs. 10,975/-
Less Professional Tex	Rs. 100/-
Net Monthly income	Rs. 10,875/-
Annual Income (Rs. 10,875 x 12)	Rs. 1,30,500/-
	Rs. 19,575.00
Future Prospect to be added(15%)	Rs. 1,50,075/-
Personal Expenses (1/3)	Rs. 1,00,050/-
Multiplier to be "9"	X 9
	Rs. 9,00,450/-
General Damages	Rs. 84,000/-
	Rs.9,84,450/-
Less Award	Rs. 5,48,252/-
Entitlement	Rs. 4,36,198/-

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 5,48,252/- The appellants/claimants are entitled to a sum of Rs. 4,36,198/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application till the date of its realization..
9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 4,36,198/- along with interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within two weeks after vacation from the date of passing of this order. In view of

the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.³. 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.

10. The office of the Learned Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, the entire awarded amount so deposited with accrued interest directly to the bank accounts of the present appellants/claimants as mentioned in the impugned judgment and award passed by the Learned Judge, 10TH Court of Additional District Judge at Alipore, in MAC Case No.141 of 2003 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.

(Ananya Bandyopadhyay, J.)

³ 2025 INSC 361