

Form No. J(2)

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

Present:

**The Hon'ble Justice Ananya Bandyopadhyay**

**FMA 297 of 2025**

**National Insurance Company Limited  
Versus  
Tota Ghosh @ Tota Karak Ghosh  
@ Tota Rani Karak & Ors.**

|                              |   |                                                    |
|------------------------------|---|----------------------------------------------------|
| For the Appellant            | : | Ms. Sucharita Paul                                 |
| For the Respondent No.1 to 3 | : | Mr. Gazi Faruque Hossain<br>Ms. Rita Bhattacharyya |
| Heard & Judgment on          | : | 3 <sup>rd</sup> September, 2025.                   |

**Ananya Bandyopadhyay, J:**

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present in Court.
2. The instant appeal had been filed against the judgment and award dated 9<sup>th</sup> September, 2024 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 1<sup>st</sup> Court, Paschim Medinipur in M.A.C. Case No. 240 of 2017.
3. The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal on the

ground that the Learned Tribunal did not deduct the amount paid towards income tax as well as professional tax in computing the annual income of the victim with regard to the salary slip marked as Ext. 9, 9/1 respectively. Moreover, there was no evidence that the father of the victim was solely dependent on the income of the same and accordingly the Learned Tribunal should not have deducted 1/4<sup>th</sup> towards personal expenditure. Further, the Learned Tribunal had granted simple interest of 6% and additional 9% as default interest on the compensation amount.

4. The Learned Advocate representing the respondent No.1 to 3/claimants submitted that the Learned Tribunal after proper assessment of the oral and documentary evidence on record justifiably computed the compensation amount which should not be interfered with.
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 salary slip marked as Ext. 9, 9/1 depicted the amount to have been deducted on account of income tax and professional tax paid per month which should have been taken into consideration by the Learned Tribunal while computing

the compensation amount. Moreover, the examination in chief filed on affirmation by the father of the victim being P.W.2 mentioned to have been solely dependent on the income of the victim who had been the only earning member of their family.

6. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr<sup>1</sup> and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.<sup>2</sup> The impugned award of Rs. 1,01,37,605/- is modified as follows:

|                                          |                 |
|------------------------------------------|-----------------|
| Monthly Income                           | Rs. 49,682/-    |
| Less Income tax                          | Rs. 80/-        |
|                                          | Rs. 49,602/-    |
| Less Professional tax                    | Rs. 200/-       |
|                                          | Rs. 49,402/-    |
| Future Prospect to be added( 50%)        | Rs. 24,701/-    |
|                                          | Rs. 74,103/-    |
| Annual Income                            | x 12            |
| Less 1/4 <sup>th</sup> Personal expenses | Rs.8,89,236/    |
|                                          | Rs.2,22,309/    |
| Multiplier to be "15"                    | Rs. 6,66,927/-  |
|                                          | X 15            |
|                                          | Rs.1,00,03,905  |
| General Damages                          | Rs. 84,000/-    |
| Entitlement                              | Rs.1,00,87,905/ |

7. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 1,48,08,389,/(Rs. 25,000 + 1,48,08,389) through two separate

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<sup>2</sup> (2009) 6 SC 121

cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.

8. The Learned Advocate representing the respondent Nos. 1 to 3/claimants are entitled to receive the amount of Rs. 1,00,87,905/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 15.05.2017 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 3/claimants as mentioned in the impugned judgment and award passed by Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 1<sup>st</sup> Court, Paschim Medinipur in M.A.C. Case No. 240 of 2017 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees and refund the differential amount, if any, through a cheque to the Learned Advocate for the insurance company for the accounts of the insurance company. 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 is disposed of accordingly.

11. The pending application, if any, stands disposed of.
12. The interim order if any stand vacated.
13. 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.**