

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 202 of 2024

**Samir Kittaniya & Ors.
Versus
United India Insurance Company Limited & Anr.**

For the Appellants/claimants : Mr. Saidur Rahaman.

For the Respondent No. 1/Insurance
Company : Mr. Sanjay Paul.

Heard & Judgment on : 11th September, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellants/claimants and the respondents/Insurance Company are present in Court.
2. The instant appeal had been filed against the judgment and award dated 28.07.2023 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court - V, Barasat, North 24-Parganas in M.A.C. Case No. 548 of 2017/537/2017.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants for the death of the victim in an

accident which occurred on 14.06.2017 at about 9.45 hours on Gobordanga Gaighata road near Sripur Culvert in front of Netai Mondal's house within the jurisdiction of Gaighata Police Station with the involvement of the offending vehicle being a motorcycle bearing registration no. WB-26AN/9862 which clashed with the victim proceeding at an excessive speed rashly and negligently whereby the victim sustained severe injuries and was declared dead on her transmission to Habra State General Hospital.

4. The Learned Advocate representing the appellants/claimants submitted the victim being a housewife in consideration of her entitlement to a certain amount of income, the claimants claimed a sum of Rs.5,300/- per month. However, the Tribunal granted a sum of Rs.4,000/- per month as the income. Moreover, in case of five claimants to have filed the instant claim application the Tribunal deducted 1/3rd of the annual income towards personal expenses instead of 1/4th.
5. The Learned Advocate representing the respondents/Insurance Company submitted that accident to have occurred in the year 2017 the Learned Tribunal had rightly assessed the monthly income of the victim to be Rs.4,000/-.
6. Since the occurrence of the accident, involvement of the offending vehicle, driving licence, Insurance certificate etc. are not disputed by the Learned advocate representing the

respondents/insurance company, this Court restricts itself only to the extent of rectifying the above-mentioned issues.

7. Considered the rival contentions of the learned Advocates representing the respective parties.
8. In numerous Judgments of the Hon'ble Supreme Court and of this Court it has been considered that the contribution of a housewife towards her family and other work are indisputable and undeniable. The services rendered by any housewife for the upkeep of the family and the ancillary participation for running the same should not be undermined. Therefore, the monthly income of the victim as claimed to be Rs.5,300/- is not excessive. In case of five claimants the Tribunal should have deducted 1/4th of the annual income towards personal expenses instead of 1/3rd.
9. The Learned Tribunal had granted the liberty to the respondents/Insurance Company to recover the compensation amount paid to the appellants/claimants from the owner of the offending vehicle and the same is not interfered with.
10. 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. 2,30,000/- is modified as follows:

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

² (2009) 6 SC 121

Monthly Income	Rs. 5,300/-
Annual Income	Rs. 63,600/-
Less : 1/4 th Personal Expenses	Rs. 15,900/-
	<u>Rs. 47,700/-</u>
Multiplier to be "5"	X 5
	<u>Rs. 2,38,500/-</u>
Add : General Damages	Rs. 70,000/-
	<u>Rs. 3,08,500/-</u>
Less: Already received in terms of Tribunal's award	Rs. 2,30,000/-
	<u>Rs. 78,500/-</u>
Enhancement	

11. The Learned Advocate for the appellants/claimants submitted

that the appellants/claimants have withdrawn a sum of Rs.2,30,000/-. The appellants/claimants are entitled to receive the balance sum of Rs.78,500/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its actual realization. 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 disbursement of the compensation amount.

12. The Learned Advocate representing the respondents/Insurance

Company is to deposit the balance sum of Rs.78,500/- along with interest at the rate of 6% interest per annum from the date of

filing of the claim application before the office of the Learned Registrar General, High Court, Calcutta within two months from the date of passing of this order.

13. The Office of the Learned Registrar General, High Court at Calcutta, shall encash the cheques and thereafter disburse the same directly to the Bank accounts of the appellants/claimants in equal proportion as mentioned in the impugned judgment of the Learned Judge, Motor Accident Claims Tribunal, Fast Track Court - V, Barasat, District – North 24-Parganas in M.A.C. Case No. 548/2017/537/2017 of 2016 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court fees.
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.)