

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 268 of 2025

**United India Insurance Co. Ltd.
Versus
Deep Mahili & Ors.**

For the Appellant : Ms. Sucharita Paul

For the Respondent No.1 to 3/
claimants : Mr. Amit Ranjan Pati

Heard & Judgment on : 2nd July, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 3rd September, 2024 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 4th Court, Paschim Medinipur in M.A.C. Case No. 464 of 2018.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim

in an accident which occurred on 23rd June, 2018 at about 2.30 P.M. while he was proceeding towards Goaltore from the side of Pingboni with the involvement of the offending vehicle being Lorry bearing registration No. WB-31/3782 at an exceeding speed rashly and negligently clashed with the victim near Goaltore and being transmitted to the B.P.H.C, he was declared brought dead as an effect of the injuries suffered through the accident.

4. Learned Advocate representing the appellant/insurance company submitted that the learned tribunal in absence of documentary evidence and corroborative oral evidence considered the monthly income of the victim to be Rs. 7000/- which had been exorbitant. Moreover, a sum of Rs. 3,34,000/- was awarded on the ground of general damages including loss of consortium contrary to the principles laid down in National insurance company Ltd. Vs. Pranay Shetty & Anr.
5. The learned Advocate representing the respondent Nos. 1 to 4/claimants submitted that the learned tribunal considering the oral and documentary evidence available on record had justifiably awarded the compensation which should not be interfered with.
6. Considered the rival contentions of the Learned Advocates representing the respective parties.

7. Since the occurrence of the accident, the driving license, the Insurance policy, 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 accident occurred in the year 2018 and considering the fiscal index prevalent at the relevant point of time the learned tribunal to have considered the monthly income of the victim to be Rs.7000/- perform as a helper or khalashi of a truck is justified and not to be interfered with. However, the compensation towards general damages inclusive of the loss of consortium had been erroneous which needed to be rectified.
8. 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. 14,75,200/- is modified as follows:

Monthly Income	Rs. 7000/-
Future Prospect to be added(40%)	Rs. 2800/-
Annual Income	Rs. 9,800/-
	X 12/-
1/4 th Deduction	Rs. 1,17,600/-
Personal Expenses	Rs. 29,400/-
	Rs. 88,200/-
	X 18
Multiplier to be " 18"	
	Rs. 15,87,600/-

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

² (2009) 6 SC 121

General Damages Entitlement	Rs. 15,87,600/- Rs. 84,000/- Rs. 16,71,600/-
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9. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 24,23,722/=(Rs. 25,000 + 23,98,722) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
10. The Respondent Nos. 1 to 3/claimants are entitled to receive the amount of Rs. 16,71,600/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 01.09.2018 till the date of actual realization.
11. 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 respondent Nos. 1 to 3/claimants as mentioned by learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 4th Court, Paschim Medinipur in M.A.C. Case No. 464 of 2018 on proof of proper identification of the respondent No.1 to 3/claimants subject to payment of ad valorem Court fees and refund the balance amount, if any, along with accrued interest

through a cheque to the Learned Advocate for the Appellant/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.

12. The instant appeal is disposed of accordingly.
13. The interim order if any stand vacated.
14. The TCR be sent down to the concerned tribunal forthwith.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)