

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 78 of 2023

**Chand Bala Mandal & Anr.
Versus**

The United India Insurance Company Ltd. & Anr.

For the Appellants : Mr. Saidur Rahaman

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

Heard on & Judgment on : 2nd May, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 8th August, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, 5th Court, Malda in M.A.C. Case No. 285 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 05.10.2018 at about 13.10

hours with the involvement of the offending vehicle being a motor cycle bearing Chassis No. MEIRG 4427J0177286 and Engine No. G3J310372413 which at an exceeding speed rashly and negligently hit the victim stationed in front of her house at Salukadoba who sustained grievous injuries and expired at Malda Medical Collage and Hospital.

4. Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the ground of quantum which was meagrely considered to be Rs. 3000/- by the concerned Tribunal instead of Rs. 7500/- as claimed stating that the victim was engaged as ICDS worker earning Rs. 7500/- per month.
5. The learned Advocate representing the respondent No.1/Insurance Company submitted that the claimants failed to prove the victim worked as an ICDS worker. It was further submitted considering the age of the victim to be 43 years at the time of the accident, the learned Tribunal erroneously applied the multiplier "15" instead of "14". Moreover, considering the notional income of the victim to be Rs. 3000/- in absence of oral and documentary evidence to establish the fact of the victim being an ICDS worker earning Rs. 7500/- per month, the learned Tribunal was justified in awarding the compensation.

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 extent of issues agitated by the respective parties.
7. The Learned Advocate representing the appellants/claimants referred to a memo No. 5867-SW/P/3SF-14/12(Pt-1) notified on 01.11.2018, which *inter alia* stated that the ICDS workers were entitled to receive the amount of Rs. 6750/- as honorarium per month segregated under various heads. Since the date of the notification was effective from 1st October, 2018 the victim could not have received a sum less than Rs. 5500/- which should not have been improbable.
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. 3,59,700/- is modified as follows:

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

² (2009) 6 SC 121

Monthly Income	Rs. 5500/-
Annual income	x 12
	Rs. 66,000/-
Future Prospect to be added(25%)	Rs. 16,500
	Rs. 82,500/-
Personal Expenses (50%)	Rs. 41,250/-
	Rs. 41,250/-
Multiplier to be "14"	X 14
	Rs. 5,77,500/--
Less	Rs. 3,59,700/-
Entitlement	Rs. 2,17,800/-

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 3,59,700/- The appellant No.1/claimant is entitled to a sum of Rs. 2,17,800/- along with interest at the rate of 6%per annum to be paid from the date of filing of the claim application i.e. 15.11.2018 till the date of realization.
10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 2,17,800/- along with interest before the office of the learned Registrar General High Court at Calcutta within ten weeks from the date of passing of this order.
11. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same to the present appellant No.1/claimant in M.A.C. Case No. 378 of 2003 on

proof of proper identification of the appellant No.1/claimant subject to payment of ad valorem Court's fees within four weeks.

12. The instant appeal is disposed of accordingly.
13. The pending applications, if any, stands disposed of.
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.)

c.m. AR. Ct.