

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 354 of 2025

**United India Insurance Company Limited
Versus
Mithu Maity & Ors.**

For the Appellant/Insurance
Company

: Mr. Sanjay Paul

For the claimants/Respondents

: Mr. Jayanta Kumar Mandal

Heard & Judgment on

: 11th September, 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 30th August, 2024 passed by the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District & Sessions Judge, 4th Court at Paschim Medinipur in M.A.C. Case No.510 of 2018 [CIS No.537 of 2018].

- 3.** The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal on the following grounds that (i)the Learned Tribunal did not consider the fact that the claimants failed to prove the monthly income of the victim to the extent of Rs.12,000/-, (ii) the cheque deposited by the owner of the offending vehicle with regard to the payment of premium had been dishonoured, (iii) the amount of Rs.2,50,000/- was granted in addition to the general damages which was contrary to the settled principles of law was excessive.
- 4.** The Learned Advocate representing the respondent Nos. 1 to 3/claimants submitted though the Learned Tribunal had mentioned the compensation to the extent of 25% to be granted in favour of the claimants with regard to the future prospect, however, did not consider the same in the operative portion of the judgment while considering it through calculation.
- 5.** Considered the rival contentions of the respective parties.
- 6.** Since the occurrence of the accident, insurance policy, the driving licence, route permit etc and other ancillary issues are not disputed by the Learned Advocate representing the appellant/Insurance Company, this Court restrict itself only to the extent of determine the above-mentioned issues.

7. The perusal of the documents on record as well as the oral evidence of the P.W.s., the appellant/Insurance Company failed to establish the fact that notice of dishonour of the cheque was communicated to the owner of the offending vehicle within the statutory period. The Learned Tribunal has reasonably dealt with this issue in the impugned judgment order and order. The Learned Tribunal did grant an excess amount of Rs.2,50,000/- towards general damages which should not have been granted. Moreover, with regard to the age of the victim to be more than 47 years on the date of the accident, the element of future prospect should have been considered to the extent of 25%. The income of the victim by virtue of being a tailor earning Rs.12,000/- in a month in the year 2018 is not 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 is modified as follows:

Annual Income (Rs.12,000 x 12)	Rs. 1,44,000/-
Add Future Prospect 25%	Rs. 36,000/-
1/3 rd deduction towards personal expenses	Rs. 1,80,000/-
Multiplier	Rs. 60,000/-
	Rs. 1,20,000/-
	X 13
	Rs.15,60,000/-

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

² (2009) 6 SC 121

General Damages	Rs.15,60,000/-
	Rs. 77,000/-
	Rs.16,37,000/

- 9.** The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 20,67,366/=(Rs. 25,000 + 20,42,366) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.
- 10.** The Learned Advocate representing the respondent Nos. 1 to 3/claimants are entitled to receive the amount of Rs. 16,37,000/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 25.09.2018 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 present respondent Nos. 1 to 3/claimants as mentioned in the impugned judgment and award passed by the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District & Sessions Judge, 4th Court at Paschim Medinipur in M.A.C. Case No.510 of 2018 [CIS No.537 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 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.

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

(Ananya Bandyopadhyay, J.)