IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Biswaroop Chowdhury

F.M.A. 452 of 2025

National Insurance Co. Ltd.

VERSUS

Sangita Singh and Others.

For Appellant: Mr. Rajesh Singh, Adv.

For Respondent/Claimants: Mr. Jayanta Kumar Mandal, Adv.
Mr. Sayantan Rakshit, Adv.

Last Heard on: November 18, 2025

Judgment on: November 26, 2025

Biswaroop Chowdhury,J:

The Appellant before this Court was opposite party no-1 in a case under Section 166 of the Motor Vehicles Act and is aggrieved by the Judgment and Award dated 23rd August 2024, passed by Learned Additional District Judge Fast Track Court Durgapur Paschim Bardhaman in MAC Case No-51 of 2018.

The case of Respondent no. 1 to 4/claimants may be summed up thus: On 14-07-2017 at about 23.30 Hrs the victim was proceeding towards

Durgapur from Burdwan side through old G.T. Road by a car bearing no: WB-40AB/9938 (Maruti Swift Car) with his friend, when he reached at Kestopur More under jurisdiction of Burdwan P.S. at that time one Truck bearing no: WB-41A/4776 coming with high speed and negligent manner towards opposite direction dashed one pedestrian and for losing control the said truck dashed the said Maruti Swift Car bearing no: WB-40AB/9938 on the wrong side of the road. As a result both of them sustained severe bleeding injuries and the said Maruti Car also got badly damaged. With the help of local people they were shifted to the Burdwan Medical College and Hospital for treatment where victim Abhimanyu Singh succumbed due to his accidental injuries. The accident took place due to rash and negligent driving on the part of the offending truck bearing no. WB-41A/4776.

The deceased was the only earning member of his family and the claimants being the dependants are facing very much financial crisis.

The Appellant contested the case by filing written statement.

Issues were framed and evidence was adduced by the claimants/respondent no. 1 to 4. Upon considering the evidence adduced and upon hearing the parties the Learned Trial Court was pleased to dispose of the claim case by observing and directing as follows:

'Hence it is ordered that the application under Section 166 of the Motor Vehicles Act 1988 is allowed on contest against the opposite Party No. 2 (National Insurance Co. Ltd) and ex-parte against the opposite party No. 1. The petitioner namely 1) Sangita Singh (wife of the deceased), 2) Jyoti Kumar Singh (daughter of the deceased), 3) Rakesh Kumar Singh (son of the deceased) and, 4) Sushila Debi Singh (mother of the deceased) shall get an award from the opposite party No. 2 (National Insurance Co. Ltd.) of a sum of Rs. 63,70,000/- (Rupees Sixty Three Lakh Seventy Thousand only) as compensation along with 6% simple interest per annum on the said amount to be calculated from the date of filing of this case ie. from 31.07.17 till the actual deposit of the amount.

The Opposite Party No. 2 (National Insurance Co.Ltd.) is hereby directed to pay the aforesaid amount of compensation along with the interest to the claimants by issuing separate A/C payee cheques in the manner hereinbelow within one month from the date of delivery of judgment as follows:

1. In the name of Sangita Singh (wife of the deceased Abhimanyu Singh) amounting to Rs. 16,22,500/- (Rs. 15,82,500/- + Rs. 40,000/-) (Rupees Sixteen Lac twenty Two Thousand Five Hundred only) along with interest as ordered;
2. In the name of Jyoti Kumari Singh (daughter of the deceased Abhimanyu Singh) amounting to Rs. 15, 82,500/-(Rupees Fifteen Lac Eighty Two Thousand Five hundred only) along with interest as ordered.
3. In the name of Rakesh Kumar Singh (son of the deceased Abhimanyu Singh) amounting to Rs. 15,82,500/-(Rupees Fifteen Lac Eighty Two Thousand Five Hundred only) along with interest as ordered and

4. In the name of Sushila Debi Singh (mother of the deceased Abhimanyu Singh) amounting to Rs. 15,82,500/-(Rupees Fifteen Lac Eighty Two Thousand Five Hundred only) along with interest as ordered.

It is also ordered that the Opposite Party No. 2 Insurance Company, ie. the insurer after satisfying the Award will be at liberty to seek recovery of the compensation amount from the Opposite Party No. 1 ie. the insured/owner of the offending truck.'

The Appellant being aggrieved by the Judgment and Award of the Learned Trial Court has assailed the same in this Appeal. Although the Appeal is preferred on different grounds but as the Learned Advocates confined their arguments with regard to the income of the deceased, the issue with regard to income is only taken into consideration while deciding this Appeal.

Learned Advocate for the Appellant submits that the Learned Trial Judge without deciding the issue of income on the basis of last Income Tax Return filed proceeded to decide the same on the basis of Auditors report for the year 2016-2017. Learned Advocate further submits when the Income Tax Return relied upon for the year 2016-17 was not filed the Auditors' Report ought not to be relied in deciding the income of the victim, and the last Income Tax Return which was filed ought to have been considered.

Learned Advocate for the Respondent no. 1, 2, 3 and 4/claimants disputes the submission of the Learned Advocate for the Appellant and submits that the Audit Report reflects the income of the victim thus the same cannot be discarded.

Upon hearing the Learned Advocates and considering the facts of the case this Court is of the view that as Income Tax Return is an authentic document regarding income of a person such document should be given priority. Audit Report or business return may or may not be accepted by Income Tax Authority fully and different clarifications may be sought on the return. But when an Income Tax Return is accepted by Income Tax Authority it is the most authenticate document regarding income. In absence of Income Tax Return, Auditor's Report or Accounts of a person or establishment may be taken into consideration but when income tax return is filed and accepted by the Income Tax Authority that has to be accepted and given priority. In the instant case the Learned Trial Judge ought to have considered the last Income Tax Return of the victim filed before the Income Tax Authority to ascertain the income.

Hence the Judgment/Award of the Learned Trial Judge should be modified by considering the last income of the victim/deceased as per Last Income Tax Return as Rs. 4,29,589/-.

In the facts and circumstances the total compensation should be as follows:

A. Annual Income-Rs. 4,29,589/-

   Less-Income Tax Paid-Rs. 6,688/-

Net Annual Income-Rs. 4,22,901/-

Add-25% Future Prospects-Rs. 1,05,725/-

-Rs. 5,28,626/-

Less-1/4th for Personal Expenses-Rs. 1,32,156/-

-Rs. 3, 96, 470/-

Multiplier of 14 to be applied Rs. 3,96,470X14-Rs. 55,50,580/-

Add-General Damages-Rs. 84,000/-

Total Compensation-Rs. 56,34,580/-

Thus the Respondents no. 1 to 4 are entitled to a compensation of Rs. 56,34,580/- from the Appellant.

Hence this Appeal is allowed in part. Judgment and Award dated 23rd August 2024 passed by Learned Additional District Judge Fast Track Court Durgapur in MACC No. 51 of 2018 is modified to the extent that the Respondent no-1 to 4/claimants are entitled to a compensation of Rs. 56,34,580/- along with interest @ 6% per annum from the date of filing till date of disbursement. Other contents of order of Learned Trial Court remain unaltered. Upon payment of Rs. 40,000/- to the Respondent no-1, the balance awarded amount shall be distributed equally to all the respondents. Residuary amount lying in deposit will be returned to the Appellants upon compliance of all necessary formalities and upon giving the Learned Advocates of the parties an opportunity of being heard.

This Appeal stands disposed.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)