

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 284 of 2025

**National Insurance Company Limited
Versus
Sonali Barik & Ors.**

For the Appellant/Insurance
Company

: Mrs. Sucharita Paul

For the Respondents/Claimants

: Mr. Pingal Bhattacharyya,
Mr. Rajdeep Sinha,
Ms. Poonam Keswani

Heard & Judgment on

: 3rd September, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court today.
2. The instant appeal had been preferred against the impugned judgment and order dated 13.08.2024 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court , Tamluk, Purba Medinipur in M.A.C. Case No. 192 of 2021.
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 25.01.2021 at about 9:30 P.M. on Heria-Itaberia pitch road at Udbadal near Saktia Manasa Mandir within the jurisdiction of Bhupatinagar Police Station, District – Purba Medinipur with the involvement of the offending vehicle being a Tata Indigo bearing registration no. WB-30Q/4778 which proceeding at an excessive speed rashly and negligently collided with the auto rickshaw bearing registration no. WB-31A/3713 being driven by the victim resulting in grievous injuries sustained by the victim who was thereafter transferred to Mugberia BPHC. Subsequently, the victim was referred to Purba Medinipur District Hospital at Tamluk wherefrom he was transferred to NRS Medical College and Hospital at Calcutta wherein he succumbed to his injuries on 26.01.2021.

4. The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal on the grounds that the income of Rs.9,000/- per month as assessed by the Learned Tribunal was excessive since the accident occurred in the year 2021 and in absence of corroborative oral as well as documentary evidence the sum of Rs. 9,000/- considered to be the monthly income of the victim had been exorbitant and a notional income to the extent of Rs.5,000/- should have been granted. Moreover, it was submitted that the Tribunal had granted loss of consortium to the extent of Rs.88,000/- which

should be reduced to Rs.44,000/-. The offending vehicle insured under the appellant/Insurance Company was falsely implicated as an afterthought since the complaint was lodged after 25 days of the occurrence of the accident. Moreover, the Learned Tribunal erroneously granted interest at the rate of 4% and, thereafter, 6% on default.

5. The Learned Advocate representing the respondents/claimants submitted the Learned Tribunal to have assessed the entire record consisting of oral and documentary evidence and justifiably computed the compensation awarded which should not be interfered with.
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. Considered the rival contentions of the Learned Advocates representing the respective parties.
8. The victim had been the owner of the auto rickshaw being driven by him. Accordingly, in the year 2021 considering the fiscal index the sum of Rs.9,000/- to have been earned by the victim in a month should not be improbable. In view of the number of claimants the loss of consortium should be Rs.44,000/- instead of

Rs.88,000/- . The document marked as Exhibit-1/1 being the complaint stated the reason for delay of 25 days in filing the complaint owing to time consumed in performing the funeral rites and rituals along with mental agony and trauma faced due to the death of the victim which denoted explanatory and acceptable reasoning.

9. 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. 17,33,800/- is modified as follows:

Monthly Income	Rs. 9,000/-
Add : 40% Future Prospect	Rs. 3,600/-
	Rs. 12,600/-
Annual Income [12,600 X 12]	Rs. 1,51,200/-
Less : 1/3 rd Personal Expenses	Rs. 50,400/-
	Rs. 1,00,800/-
Multiplier to be "16"	X 16
	Rs. 16,12,800/-
Add : General Damages	Rs. 84,000/-
Total	Rs. 16,96,800/-

10. The Learned Advocate representing the appellant/Insurance Company submitted to have deposited a sum of Rs.21,03,869/-

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

² (2009) 6 SC 121

as per challan filed by the Learned advocate representing the appellant/insurance company.

11. The Learned Tribunal had awarded the compensation to the claimants of Rs. 17,33,800/- along with interest at the rate of 4% per annum, in default, at the rate of 6% per annum from the date of filing of the application till the date of realization.
12. The respondents/claimants are entitled to a sum of Rs. 16,96,800/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization.
13. The Learned Advocate for the appellant/insurance company is to deposit the balance sum, if necessary, before the office of the Learned Registrar General, High Court Calcutta within eight weeks from the date of passing of this order.
14. 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 to the Bank accounts of the respondents/claimants as mentioned in the impugned judgment of the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court, Tamluk, Purba Medinipur in M.A.C. Case No. 192 of 2021 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees. 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.

15. The instant appeal is disposed of accordingly.
16. The pending applications, if any, stands disposed of.
17. The TCR be sent down to the concerned Tribunal forthwith.
18. 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.)