

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 328 of 2025

**Shankar Samanta
Versus**

The United India Insurance Company Ltd. & Anr.

For the Appellant : Mr. Amit Ranjan Roy

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

Heard & Judgment on : 7th March, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal has been filed against the judgment and award dated 16th February, 2024 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, Haldia, Purba Medinipur in M.A.C. Case No. 05 of 2016.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimant who sustained an injury to the extent of 85% in an accident which occurred on 24.02.2014 at about

1.00 p.m. with involvement of the offending vehicle being truck bearing registration no. WB29/2286 which approached at an exceeding speed rashly and negligently, hit the victim from behind. The victim suffered amputation of his left hand.

4. Learned Advocate representing the appellant/claimant submitted that the learned Tribunal erroneously considered the monthly income of the victim to be Rs. 3000/- instead of Rs. 7000/- as claimed in the claim application being a helper of a truck. However, the learned Tribunal had assessed the physical disablement of the victim to the extent of 100%. More-over, the amount of Rs. 3,10,000/- as general damages under different heads had been inadequate.
5. The learned Advocate representing the respondent No.1/Insurance Company submitted that in absence of oral as well as documentary evidence the learned Tribunal was justified in assessing the monthly income of the victim to be Rs. 3000/- and the amount granted towards different heads to be Rs. 3,10,00/-be sufficient.
6. Heard the submission of the Learned Advocates representing both the parties as well as considered the documents on record. The monthly income of the victim at the relevant point of time considering the fiscal index can be computed as Rs. 5000/- which might not be improbable. A person losing his arm is indubitably

incapacitated to a considerable extent apart from suffering from physical and mental trauma, the sum of Rs. 1,40,000/- towards pain and suffering incurred by the victim is increased to Rs. 2,40,000/-

7. 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. 11,16,400/- is modified as follows:

Monthly Income	Rs. 5000/-
Annual Income	Rs. 60,000/-
Functional disability 100%	
Future Prospect to be added(40%)	Rs. 24,000/-
	<u>Rs. 84,000/-</u>
Multiplier to be "16"	X 16
	<u>Rs. 13,44,000/-</u>
General Damages	Rs. 4,00,000/-
	<u>Rs. 17,44,000/-</u>
Less Award	Rs. 11,16,400/-
Entitlement	<u>Rs. 6,27,600/-</u>

8. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 11,16,400/-. The appellant/claimant are entitled to a sum of Rs. 6,27,600/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application i.e. 17.03.2016 till the date of its actual realization.

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 6,27,600/- along with interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order .
10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellant/claimant as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, Haldia, Purba Medinipur on proof of proper identification of the appellant/claimant subject to payment of *ad valorem* Court's fees.
11. The instant appeal is disposed of accordingly.
12. The pending applications if any stands disposed of.
13. 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.