

Form No. J (2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay.

F.M.A. 482 of 2021

ICICI Lombard General Insurance Co. Ltd.

Vs.

Panchami Barman & Ors.

For the Appellant/Insurance Company: Mr. Parimal Kumar Pahari

For the Claimant/Respondent : Mr. Saidur Rahaman.

Heard & Judgment on : 15th July, 2025

Ananya Bandyopadhyay, J.:-

1. The Learned Advocates representing the appellant/insurance company as well as respondent /claimants are present.
2. The instant appeal had been filed against the judgment dated 29th February, 2020 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Malda in MAC Case No. 49 of 2017.
3. An application under Section 166 of the M.V. Act had been filed by the claimants on account of the death of the victim in an accident which occurred on October 03, 2016 at about 22.00 hours at Sahidpur within the jurisdiction of Gazole Police Station in the District of Malda with the involvement of the offending

vehicle being a motorcycle bearing registration no.WB-66U/8620 which approached at an exceeding speed, rashly and negligently clashed with the victim on his way home from his friend's house which resulted in severe injuries sustained by the victim who succumbed to the same at Malda Medical College and Hospital.

4. The Learned Advocate representing the appellant/insurance company submitted that the offending vehicle had been falsely implicated being an afterthought since the complaint was filed after 12 days from the date of occurrence of the accident. The inquest report as well as the P.M. report did not reveal the number of offending vehicle and it had only been mentioned that the accident was caused by an unknown vehicle. The victim died as a bachelor and, therefore, 50% of the income should have been deducted towards personal expenditure and the delay in filing the complaint had not been properly explained.
5. The Learned Advocate representing the respondents/claimants submitted that the Learned Tribunal after considering the oral as well as the documentary evidence on record rightly assessed the compensation awarded which should not be interfered with by this Court.
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 restricts itself only to the extent of the above-mentioned issues.

7. Considered the rival contention of the Learned Advocates representing the respective parties.
8. The documents marked as Exhibit - 3 being the charge-sheet, prima facie, revealed the involvement of the offending vehicle in occasioning the accident and the same had been seized later on. The delay of 12 days in filing the complaint had been adequately explained which need not be disbelieved. However, the victim being a bachelor, 50% of the annual income should have been deducted towards personal expenditure. The other components are well assessed.
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. 5,91,600/- is modified as follows:

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Monthly Income	Rs.3,000/-
Yearly Income	Rs.36,000/-
Add: Future prospect 30%	Rs.10,800/-
Less :50%	Rs.46,800/-
Multiplier '18'	Rs.23,400/-
	X 18
Add : General Damages	Rs.4,21,200/-
Total	Rs.30,000/-
	Rs.4,51,200/-

10. The Learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.7,91,384/- as per challan filed by the Learned Advocate representing the Appellant/Insurance Company.
11. The Respondents/claimants are entitled to receive the amount of Rs. 4,51,200/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
12. 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 Bank accounts of the respondents/claimants in equal proportion as mentioned in the impugned judgment of the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Malda in M.A.C. Case No. 49 of

2017 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount, if any, along with accrued interest through a cheque to the Learned Advocate for the Appellant/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.

13. The instant appeal is disposed of accordingly.
14. The pending applications, if any, stands disposed of.
15. 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.)