

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 337 of 2024

**Sandhya Nayek & Ors.
Versus**

The National Insurance Company Ltd. & Anr.

For the Appellants : Mr. Pingal Bhattacharyya,
Mr. Rajdeep Sinha

For the Respondent No.1/
Insurance co. : Mr. Parimal Pahari

Heard on & Judgment on : 16th June, 2026

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 19th May, 2014 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Tamluk, Purba Medinipur in M.A.C. Case No. 20 of 2010 (M.A.C. Case No.124 of 2010).
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 11th March, 2009 at about 12.30 P.M at Tamluk Panskura pitch road near Beraberia bus stop on his

way back home whereby he was hit by offending vehicle being Motor cycle bearing registration No. WB30D/8457 resulting in his hospitalization at Purba Medinipur District Hospital, Tamluk. Subsequently he had been transferred to N.R.S. Medical Collage and Hospital and consequent to his further hospitalization at Mission Mercy Hospital & Research Centre, Park Street suffering severe injuries, he succumbed to the same on 15th April, 2009.

4. During the course of hearing, the matter was referred to SIT to ascertain the veracity of the accident with regard to the involvement of the offending vehicle as to whether the same had been implanted or occasioned to have been fabricated. The report from the Additional Superintendent of Police (Traffic & Chairman of SIT dated 1st February, 2026 *inter alia* stated as follows:

"The fact of the case in brief is that on 09.11.2009 at 17.05 hrs, the officer in charge of Panskura PS received a written complaint of one Manas Nayek S/O Lt. Subal Nayek of Vill – Goggrass, PS Panskura, Dist – Purba Medinipur alleging that on 11.03.2009 at around 12.30 hrs, while his father was returning home from duty, he was dashed by one motor cycle bearing no. WB 30D 8457 and sustained grievous injury causing which local people took him to Tamluk Hospital for treatment. On 12.03.2009 he was referred to NRS Hospital, Kolkata and subsequently he was shifted to Mission of Mercy, Hospital & Research Centre, situated in Park Street, Kolkata where his father expired on 15.04.2009. The Postmortem examination was held vide Park Street PS UD Case No. 354/09 dtd 16.04.2009. Over the complaint Panskura PS case No. 278/2009 dtd 09.11.2009 U/S 279/304A IPC was started and SI Partha Sanyal (The then OC Panskura PS) took up it's investigation. After completion of investigation, SI Dilip Kr. Das of Panskura PS(subsequent IO) submitted Panskura PS Charge Sheet No. 297/2011 dtd 05.10.2011 U/S 279/304A IPC against the offending rider of M/Cycle no. WB 30D 8457 namely Avijit Pattanayek S/O

Kashinath Pattanayek of vill – Kulberia, PS Tamluk, Dist Purba Medinipur.

In course of my enquiry, I went to village Beraberia under Panskura PS and examined the PO. The PO is upon the pitch road connecting Radhamoni with Panskura. Earlier it was a narrow single road but during the last ¾ years, the road has developed into a wide two lane state highway. The old establishments have already been removed due to widening and presently no one could recall or tell me about the accident that occurred on 11.03.2009.

Further, I called upon and examined few available witnesses who were earlier examined by the Investigating Officers of the case. They are –

- i) The complainant of the case namely Manas Nayek S/o Late Subal Nayek of vill- Gograss under PS Panskura, Dist- Purba Medinipur (who is the son of the deceased).*
- ii) Witness namely Ajamil Bhowmik S/O Lt. Jatindra Nath Bhowmik of Gograss, PS Panskura, Dist – Purba Medinipur,*
- iii) Witness namely Dilip Bhowmik S/O Lt. Satish Ch. Bhowmik of vill – Chak Durgadas, PS Tamluk, Dist – Purba Medinipur*

I also examined the owner of the M/cycle No. WB 30D 8457 namely Kashinath Pattanayek (65 yrs) S/O Lt. Haripada Pattanayek of Kulberia, PS Tamluk, Dist – Purba Medinipur as well as the accused rider of M/Cyce No. WB 30D 8457 namely Avijit Pattanayek (42yrs.) S/O – Kashinath Pattanayek of Kulberia, PS Tamluk, Dist – Purba Medinipur.

During my enquiry, I consulted with GRO Tamluk Court and learned that the entire Case Docket of the concerned case along with the General Record of the Court has already been sent to Hon'ble High Court, Calcutta causing which I could not preview the details of the case. The Post Mortem of the deceased Subal Nayek was conducted at Kolkata Police morgue and the UD enquiry Officer as well as the Autopsy surgeon also needs to be examined. The victim was also admitted at Tamluk Hospital and NRS Hospital, Kolkata as stated by the complainant causing which enquiry in those ends is also required to ascertain the actual facts of the case".

5. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate

representing the respondent No.1/insurance company, this Court restricts itself only to the extent of issues agitated by the respective parties. However, in view of the driving licence annexed with the instant application professing as a driver the monthly income of Rs. 6000/- in the year 2009 cannot be absurd or improbable.

6. The monthly income of the deceased victim to be Rs. 6000/- per month had been disputed by the learned advocate representing the respondent No.1/insurance company.
7. In view of the report as submitted by the SIT as aforesaid the appellants/claimants are entitled to the following amount as claimed.

Monthly Income	Rs. 6000/-
Annual income	12
	72,000/-
Less 1/4 th deduction	18,000/-
Multiplier '13'	Rs. 54,000/-
	x 13
	Rs. 7,02,000/-
Future Prospect (25%)	Rs. 1,75,500/-
Add general damages	Rs. 8,77,500/-
	+ Rs. 70,000/-
	Rs. 9,47,500/-

8. The appellants/claimants are entitled to an interest at the rate of 6% per annum from the date of filing of claim application i.e. 15.01.2010 till the date of its realization. In view of the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal

& Ors.¹ the appellants /claimants is to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

9. The learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 9,47,500/- along with interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within four 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 with accrued interest directly to the bank accounts of the present appellants/claimants in M.A.C. Case No. 20 of 2010 (M.A.C. Case No.124 of 2010) on proof of proper identification of the appellants/claimants 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. The TCR be sent down to the concerned Tribunal forthwith.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

¹ 2025 INSC 361