

13.05.2026
Court No.5
D/L No.19
S. Gayen

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

FMA 29 of 2025

**Smt. Bakulbala Mandal
Versus**

**The Divisional Manager of Royal Insurance
Corporation of Bhutan Limited & Anr.**

Mr. Kalipada Das
Ms. Sahili Roy Dakua

...for the Appellant

1. The appellant has filed the present appeal being aggrieved and dissatisfied with the award passed by the learned Motor Accident Claims Tribunal, Fast Track 1st Court, Jalpaiguri in MACC No. 22 of 2013 dated March 16, 2023 by directing the Royal Insurance Corporation of Bhutan Limited to pay a sum of Rs. 9,01,600/- to the claimant within two months from the date of passing of the award failing which the opposite party No.2 will be liable to pay interest @ 9% per annum over the awarded money from the date of filing of the application till recovery of the award.
2. The appellant/claimant has filed the present appeal only on the ground that the learned Tribunal has considered the monthly income of the deceased as Rs. 5500/- per month instead of Rs. 6000/-.

3. Learned counsel for the appellant has relied upon an unreported judgment passed by the Coordinate Bench of this Court in ***FMAT (MV) 42 of 2024 (Sarathi Barman vs. Reliance General Insurance Company Ltd. & Anr.)*** dated August 23, 2024 and submits that in the said case the Coordinate Bench of this Court has passed an award by considering the notional income of Rs. 6000/- per month.
4. He has further relied upon the judgment passed in ***Civil Appeal Nos. 4310-4311 of 2023*** arising out of ***SLP(C) No. 3857-3858 of 2020 (Jayarani & Anr. vs. The Manager Bajaj Allianz General Insurance Company Ltd. & Anr.)*** and submits that in the said case the Hon'ble Supreme Court has considered the monthly income of Rs. 9000/- per month but in the present case the learned Tribunal has considered the monthly income of Rs. 5500/- without any findings. He further aggrieved with the interest awarded by the learned Tribunal. He submits that the learned Tribunal has awarded the interest with the condition that if within a period of two months from the date of passing of the award, the opposite party No.2 fails to pay the awarded amount of Rs. 9,01,600/-, the insurance company will be liable to pay interest @

9% per annum over the awarded money from the date of filing of the application.

5. Heard the learned counsel for the appellant. Perused the materials on record. The two issues have been raised in the present case. The first contention of the appellant that the learned Tribunal has considered the monthly income of Rs. 5500/- instead of Rs. 6000/-. As per the case of the appellant the deceased was working as driver with the PW2. The PW2, namely, Poshupati Jaiswal in his evidence has stated that Ratan Mandal, the deceased of the instant case was the helper of the driver of the vehicle bearing Registration No. WB-71A/2634. He died on motor accident and he paid him Rs. 6000/- per month as salary along with Rs. 150/- per day for fooding. He has issued the certificate which is marked as Exhibit-13, which reads as follows:-

“To Whom It May Concern

This is to certify that Ratan Mondal, since deceased, S/O. Late Dinesh Mondal, R/O. Vill. Baksa Para, P.O. Berubari, P.S. Kotwali, Dist. Jalpaiguri was my employee. Since last three years he used to work as manual labourer/handyman in my TATA Tipper vehicle bearing Registration No. WB-71A/2634. He died on 31.03.2012 at 5:30 P.M. in a motor accident at Bangalipara New Falimari, P.S. Bilasipara, Dist. Dhubri,

Assam while he was in duty in my said vehicle. He was lastly drawn salary Rs. 5500/- (Rupees Five Thousand Five Hundred) only per month excluding ration-money payable to him. On account of said ration-money I used to pay @ 150/- (Rupees One Hundred and Fifty) only per day.”

6. From the Exhibit-13 it is found that the PW2 has issued the certificate wherein it is clarified that the deceased was lastly drawn the monthly salary of Rs. 5500/- only per month excluding ration-money payable to him. On account of said ration-money he used to pay Rs. 150/- per day. The evidence of PW2 and the document being Exhibit-13 are contradictory. In the evidence the PW2 stated that lastly he has paid Rs. 6000/- per month as salary and Rs. 150/- per day for fooding. In the certificate it is mentioned that lastly he has drawn the salary of Rs. 5500/-. It is settled law that the documentary evidence is prevailed over the oral evidence. In the present case the documentary evidence shows that the deceased has lastly drawn the salary of Rs. 5500/- not Rs. 6000/-. The monthly payment of the deceased is to be taken as Rs. 5500/-. In the certificate as well as in the evidence, the PW2 has stated that the PW2 also used to pay of Rs. 150/- per day. If

Rs. 150/- per day is taken into consideration, it will come to Rs. 4500/- per month. The learned Tribunal by calculating the amount while awarding the compensation has only considered Rs. 5500/- but has not considered Rs. 150/- per day. If Rs. 150/- per day is taken into consideration, the monthly income will come Rs. 10,000/- instead of Rs. 5,500/-.

7. In view of the above, this Court finds that the learned Tribunal while taking into consideration the annual income of the deceased, failed to consider the evidence of the PW2 as well as Exhibit-13 issued by the PW2, wherein it is categorically mentioned that the PW2 used to pay Rs. 150/- per day to the deceased in addition to monthly salary of Rs. 5500/-. Thus, the total income of the deceased would come to Rs. 10,000/- per month.

8. In view of the above, the award passed by the learned Tribunal dated March 16, 2023 is modified in the following manners:-

- a) The annual income is assessed at Rs.1,20,000/-. (Rs. 10,000/- per month)
- b) The personal expenses of 50% are to be deducted from the annual income. So it would come to Rs.60,000/-.

c) The multiplier is to be taken into consideration as 18. Accordingly, Rs. 60,000/- x 18 = 10,80,000/-.

d) Future prospects of 40% are to be taken into consideration, i.e. Rs. 60,000/- x 40% = 24,000/-.

e) Consortium, funeral expenses and loss of love affection is Rs. 70,000/-.

Hence the total compensation would come Rs. 12,94,000/-.

9. In view of the above, the respondent N.2, Divisional Manager of Royal Insurance Corporation of Bhutan Limited is directed to pay Rs. 12,94,000/- along with interest @ 9% per annum from the date of filing of the application, i.e. January 8, 2013 till the payment of the total awarded amount.

10. **FMA 29 of 2025** is **disposed of** with the above modification.

11. Records of the learned Tribunal along with a copy of this order be transmitted back immediately.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

13. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all formalities.

(Krishna Rao, J.)