

In the High Court At Calcutta
CIVIL APPELLATE JURISDICTION
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak

FMA/57/2024
LALCHAN @ NAL BARMAN AND ANR
VS
UNITED INDIA INSURANCE COMPANY LTD. AND ANR

For the Appellants :Mr. Gobinda Saha, Advocate
Mr. Tamal Kr. Sen, Advocate
Ms. Priyanka Dey, Advocate
Mr. Milan Ch. Laskar, Advocate

For the Respondents :Mr. Prasupati Nath, Advocate

Heard & Judgment on: January 8, 2026

Debangsu Basak, J.

1. Appeal is at the behest of the claimants and directed against the Award dated August 12, 2024 passed by the Motor Claims Tribunal in MAC Case No. 141 of 2022 under Section 166 of the Motor Vehicles Act, 1988.
2. Learned advocate appearing for the appellants submits that, the monthly income of the deceased should be taken as Rs.6000/- instead of Rs.5,000/- per month. He submits that, the deceased was a student and a private tutor. Claimants disclosed a monthly income of Rs.9,000/- per month, although documentary evidence was not produced. He relies upon **(2014) 2 SCC 735 [Syed**

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Sadiq & Ors. vs. Divisional Manager, United India Insurance Company Limited] in support of the proposition that, even in the absence of the documentary evidence, Court can assess the quantum of income and award compensation on such basis.

3. Relying upon **(2008)18 SCC 130 [Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors.]**, learned advocate for the appellants submits that, filial consortium should be granted.
4. Learned advocate appearing for the Insurance Company submits that, the awarded amount was paid within 7 days. He submits that, there is no materials on record to substantiate a claim of Rs.6,000/- per month as a monthly income. No evidence was led at the trial to substantiate such claim. Therefore, no interference is called for in the impugned judgment and order.
5. Victim died in a motor accident. The claim case was disposed of by the impugned judgment awarding compensation by calculating monthly income of the victim at Rs.5000/- per month. Filial consortium was not granted.
6. Claimants claim that the victim was both a student and a tutor at the material point of time. It is also claimed by the claimants that, the monthly income of the victim was Rs.9,000/- per month.
7. No documentary evidence in support of such monthly income was produced at the trial. No documentary evidence is also produced before this Court.
8. **Syed Sadiq** (supra) is of the view that proof of income is not mandatory for the purpose of determination of the same. In the facts and circumstances of that case, monthly income of a victim

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was taken at Rs.6,000/- per month, although the claim was of Rs.9,000/- per month.

9. In the facts of the present case, no documentary evidence is produced to substantiate the claim of Rs.9,000/- per month as the monthly income of the victim as a tutor. In absence of such evidence, learned trial Judge took Rs.5,000/- per month as the monthly income. Prayer is for enhancement of Rs.6,000/- per month.
10. In the facts and circumstances of the present case, taking into account the fact that, the victim was in an unorganized sector and that the claimant could not produce any documentary evidence of the monthly income of the victim, it would be just and prudent to take Rs.6,000/- per month as the monthly income of the victim. Court takes judicial notice of the fact that, State of West Bench by a Circular fixed Rs.6,338/- per month as the monthly wages for an unskilled labour.
11. In such circumstances, the impugned judgment is modified by enhancing the monthly income of the appellants to Rs.6,000/- from Rs.5,000/- per month.
12. Impugned judgment also overlooks the grant of filial consortium expenses. In view of the ratio laid down in **Magma General Insurance Company Limited (supra)**, the same is granted.
13. Consequently, the impugned judgment is modified to include the enhanced monthly income from Rs.5000/- to Rs.6,000/- per month and filial consortium expenses of Rs.40,000/-. The increased amounts be paid by the Insurance Company within six weeks from date to the learned Registrar, Jalpaiguri Circuit Bench.

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14. FMA/57/2024 stands **disposed of** accordingly.

(Debangsu Basak, J.)

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