

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

IA No.:CAN/1/2024

in

FMA 1354 of 2024

National Insurance Company Limited

-Vs.-

Amiya Kumar Mallick & Anr.

With

COT/28/2025

Amiya Kumar Mallick & Anr.

-Vs.-

National Insurance Company Limited & Anr.

For the Appellant : Mr. Debnarayan Roy

For the Respondents : Mr. Krishanu Banik

Heard & Judgment on : 10.06.2025

Ananya Bandyopadhyay, J.:-

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present in Court.
2. The instant appeal had been filed against the judgment and award dated 06.05.2024 passed by the Learned Additional District Judge, Motor Accident

Claims Tribunal, 4th Court, Purba Bardhaman in M.A.C. Case No. 105/482 of 2016.

3. The Learned Advocate representing the appellant/Insurance Company submitted that the Learned Tribunal had erroneously considered the monthly income of the victim to be Rs. 10,000/- per month contrary to the evidence adduced by the victim whereby it was categorically stated that the yearly turnover of the business of the victim was Rs.60,000/- and in reply to Court's query the victim himself stated his yearly income to be Rs. 12,000/-.
4. The Learned Advocate representing the respondents/claimants submitted that a meagre sum of Rs. 40,000/- was granted by the Learned Tribunal towards pain and suffering and loss of amenities since the victim had suffered disablement to the extent of 85 per cent through amputation of a part of his left hand.
5. Considered the rival submissions of the Learned Advocates representing both the parties.
6. Since the occurrence of the accident, involvement of the offending vehicle, driving licence, Insurance certificate etc. are not disputed by the Learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of rectifying the compensation awarded in the following manner.
7. The Learned Tribunal has reasonably assessed the monthly income of the victim to be Rs. 10,000/- as notional income based on the registration certificate under FSS Act, 2006 marked as exhibit – 6 to have been issued

in favour of the victim in operating a grocery shop. However, this Court is inclined to modify the amount granted by the Learned Tribunal to the extent of 40% towards pain and suffering and loss of amenities to Rs.2,00,000/-.

8. 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. 13,39,200/- is modified as follows:

Monthly Income	Rs. 10,000/-
Yearly Income	Rs. 1,20,000/-
40% Future Prospects	Rs. 12,000/-

	Rs. 1,32,000/-
85% Disability	Rs. 1,12,200/-
Multiplier 11	X 11

	Rs. 12,34,000/-
Loss of pay during treatment	Rs. 10,000/-
Pain and Suffering and loss of amenities	Rs. 2,00,000/-
Special diet, nourishment and conveyance chares	Rs. 40,000/-

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Loss of enjoyment of life	Rs. 15,000/-
Total	<u>Rs. 14,99,200/-</u>

9. The respondents/claimants are entitled to a further sum of Rs. 1,60,000/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization.
10. The Learned Advocate for the appellant/insurance company is to deposit the balance sum of Rs. 1,60,000/- along with 6 % per cent interest per annum from the date of filing of the claim application till the date of its realization before the office of the Learned Registrar General, High Court Calcutta within three months from the date of passing of this order.
11. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the entire awarded amount so deposited with accrued interest directly bank accounts of the respondents/claimants as mentioned in the award passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, 4th Court, Purba Bardhaman in M.A.C. Case No. 105/482 of 2016 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court's fees. 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 disbursement as aforesaid.

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