

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 2884 of 2016
Bindu Devi Prasad & Ors.
Versus
The Oriental Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy
Mr. Pradyut Kumar Roy

...for the Appellants/claimants.

Ms. Sucharita Paul

...for the Respondent No.1/insurance company.

Heard on: December 17 2024.

Judgment on: December 17, 2024.

Ananya Bandyopadhyay, J:- Both the Learned Advocates representing the appellants/claimants and the respondent No.1/insurance company are present.

The instant appeal had been filed against the judgment and award dated 14th February, 2013 passed by the learned Judge, Motor Accident Claims cum Fast Track 3rd Court, Asansol, Paschim Bardhaman in M.A.C. Case No. 09 of 2011/73 of 2010.

An application under Section 166 of the MV Act had been filed by the claimants on account of the death of the victim owing to an accident which occurred on 18.01.2010 at about 11.50, while the victim riding a motorcycle bearing Registration No. WB-38W/2047 on return to his house from Satgram was hit by the offending vehicle being Bolero Jeep bearing registration No. WB-38R/1995 resulting in his death at Kalla Central Hospital.

The Learned Advocate representing the appellants/claimants submitted the Learned Tribunal erred in not granting the amount, specifically on account of “future prospect”. The Learned Tribunal further did not accord appropriate

amount with regard to the deduction towards personal expenses which was considered to be 1/3rd instead of 1/4th.

The Learned Advocate representing the respondent No.1/insurance company refuted the claim of the Learned Advocate representing the appellants/claimants.

The impugned judgment and order is devoid of the amount to be awarded on the ground of “future prospect” as well as the deduction to the extent of 1/4th for personal expenses. The amount of Rs. 70,000/- and 20 % of the sum totalling Rs. 84,000/- should be awarded for the loss of consortium.

Considering the observations of the Hon’ble Apex Court Pranay in *National insurance company Ltd. Vs. Pranay Shetty & Anr*¹ and *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*², the impugned award of Rs. 15,52,618/- is modified as follows:

Monthly Income	Rs. 12,859.31p/-
Future Prospect to be added(50%)	Rs. 6,429.65 p/-
	Rs. 19,288.96 p
Annual Income	Rs. 19,288.96 p
	X 12
	Rs. 2,31,467.52P/-
Multiplier to be “15”	X 15
	Rs. 34,72,012.8P/-
Personal Expenses 1/4 th (less)	Rs. 8,68,003.2P
	Rs. 26,04,009.6P/-
Round of to	Rs. 26,04,010/-
General Damages	Rs. 84,000/-
	Rs. 26,88,010/-
Less Award	Rs. 15,52,618/-
	Rs. 11,35,392/-
Entitlement	Rs. 11,35,392/-

1 2017(4)TAC 673(S.C)

2 (2009) 6 SC 121

The Learned Advocate for the appellant/claimant submitted that the appellants/claimants have withdrawn a sum of Rs. 15,52,618/-. The appellants/claimants are entitled to a sum of Rs. 11,35,392/- along with at the rate of 6% interest per annum to be paid from the date of filing of the application i.e. 10.05.2010 till the date of its actual realization.

The learned advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 11,35,392/- along with 6 % per cent interest per annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within four weeks from the date of the passing of this judgment.

The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims cum Fast Track 3rd Court, Asansol, Paschim Bardhaman in M.A.C. Case No. 9 of 2011/73 of 2010 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court's fees.

The instant appeal is disposed of accordingly.

Copy of the order be sent to the Department as well as concerned tribunal for information.

c.m.

(Ananya Bandyopadhyay, J.)