

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 3532 of 2016

Nirmala Singh @ Nirmala Devi & Anr.
v.
National Insurance Company Ltd. & Anr.

Mr. Krishanu Banik ... for the appellants/claimants.

Mr. Deb Narayan Roy ... for the respondent no. 1/Insurance Co.

Heard on: 26.11.2024.

Judgment on: 26.11.2024.

Ananya Bandyopadhyay, J:- Both the Learned Advocates representing the appellants/claimants as well as respondent no.1/Insurance Company are present.

The instant appeal had been filed against the judgment and order dated 17th September, 2015 passed by the learned Judge, Motor Accident Claims Tribunal, cum Additional District Judge, 6th Court, Alipore, South 24 Parganas in MAC Case No. 44 of 2011.

An application under Section 166 of the Motor Vehicles Act had been filed by the claimants seeking compensation due to the death of the victim in an accident, which occurred on 02.02.2011 at about 19.10 hrs. at Hobokan Road near Shivam Kata with the involvement of the offending vehicle being a

lorry bearing Registration No. WB-25-6022 whereby the victim succumbed to his injuries being hit the same being vehicle being driven rashly and negligently.

The Learned Advocate representing the appellants/claimants submitted the Learned Tribunal did not consider the documents relating to the income of the victim to be Rs.4,750/- per month, however, considered the victim worked for 24 days in a month and earned Rs.220/- per day. The learned advocate representing the appellants/claimants further submitted that the “General Damages” were erroneously granted to the extent of Rs.4,500/- and the “Multiplier” was considered to be 14 which otherwise would be 18.

The Learned Advocate representing the respondent no. 1/Insurance Company submitted that the Learned Tribunal after assessing the entire evidence on record both oral and documentary and had rightly assessed the compensation amount which should not be interfered with.

The documents on record namely, Voter Identity Card and Aadhaar Card and West Board of Secondary Education stated the age of the victim to be within the range of 23-24 years of age, and therefore, the “Multiplier” should be considered as 18.

In absence of proper documents to establish the income of the deceased person, sum of Rs.5,000/- can be pertinently considered as “Monthly Income”.

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. 3,99,300/- is modified as follows:

Monthly Income	Rs. 5,000/-
Annual Income	Rs. 60,000/-
	Rs. 24,600/-
Future Prospect to be added(40%)	Rs. 84,000/-
1/2 nd Deduction	Rs. 42,000/-
Personal Expenses	-----
	Rs. 42,000/-
Multiplier to be "18"	Rs. 42,000/-
	X 18
General Damages	Rs. 7,56,000/-
	Rs. 30,000/-
Less Award	Rs. 7,86,000/-
	Rs. 3,99,300/-
	Rs. 3,86,700/-
Entitlement	Rs. 3,86,700/-

The learned advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 3,99,300/-. The appellants/claimants are entitled to a sum of Rs. 3,86,700/- along with 6% interest per annum to be paid from the date of filing of the application i.e. 22.03.2011 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. 3,86,700/- 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 after vacation.

The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, cum Additional District Judge, 6th Court, Alipore, South 24 Parganas in M.A.C. Case No. 44 of 2011 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.

The pending applications if any stands disposed of.

The TCR be sent down to the concerned Tribunal forthwith.

Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

c.m.

(Ananya Bandyopadhyay, J.)