

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 84 of 2024
Baruni Maji.
Versus
The United India Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

...for the Appellant/claimant.

Mr. Rajesh Singh

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

Heard on: November 19 2024.

Judgment on: November 19, 2024.

Ananya Bandyopadhyay, J:- Both the learned Advocates representing the appellant/claimant and the respondent No.1/insurance company are present.

The instant appeal had been filed against the judgment and award dated 24th August, 2022 passed by the learned Judge, Motor Accident Claims cum Additional District Judge, 2nd Court, Asansol, Paschim Bardhaman in M.A.C. Case No. 51 of 2016.

The application under Section 166 of the Motor Vehicles Act had been filed by the appellant/claimant due to the accidental death of the victim who died in an accident which occurred on 10.07.2015 at about 20.45 hours involving the offending vehicle being Truck bearing registration No. WB 37A/9711 wherein the victim and his friend were proceeding towards Mejia from Durlavpur side by

riding a motor cycle bearing registration No. WB 68N/6921 on the way on NH-60 near Uddhabpur More. The offending vehicle approaching from Mejia Side proceeded towards Durlavpur side in a rash and negligent manner and dashed the victim. As a result the victim and his friend died on the spot.

Subsequently, based on a written complaint, Mejia Police Station Case No. 85 of 2015 dated 16.07.2015 under Section 279/304A/27 IPC was instituted against the driver of the offending truck.

The owner of the offending vehicle did not appear before the Court to contest the MAC case No. 51 of 2016 in the Court of learned Judge, Motor Accident Claims cum Additional District Judge, 2nd Court, Asansol, Paschim Bardhaman.

The Learned Judge, Motor Accident Claims cum Additional District Judge, 2nd Court, Asansol, Paschim Bardhaman disposed of the issues framed through a judgment dated 24th August, 2022 awarding a sum of Rs. 9,56,640/- along with an interest at the rate of 6% per annum on the amount of compensation from the date of filing of application till realization in full to be paid by the respondent/insurance company.

Heard the rival contentions of the learned advocates for the claimants as well as respondent/insurance company.

It was submitted by the learned advocate for the appellant/claimant that the learned tribunal erred in considering the future prospect at the rate of 10% instead of 40%.

The learned Advocate for the respondent No.1/insurance company did not dispute the occurrence of the accident, the involvement of the offending vehicle,

the route permit, the insurance policy, etc. This Court restricts itself only to the extent of ‘future prospect’ as disputed by the learned advocate for appellant/claimant.

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. 9,56,640/- is modified as follows:

Monthly Income	Rs. 7,800/-
Annual Income	Rs. 93,600/-
Personal Expenses (50%)	Rs. 46800/-
Future Prospect to be added(40%)	Rs. 18,720/-
Multiplier to be “18”	Rs. 65,520/- X 18
General Damages	Rs. 11,79,360/- Rs. 33,000/-
Less Award	Rs. 12,12,360/-
Entitlement	Rs. 9,56,640/-
	Rs. 2,55,720/-

The learned advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 9,56,640/-. The appellant/claimant is entitled to a sum of Rs. 2,55,720/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization.

1 2017(4)TAC 673(S.C)
² (2009) 6 SC 121

The learned advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 2,55,720/- 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 appellant/claimant in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims cum Additional District Judge, 2nd Court, Asansol, Paschim Bardhaman in M.A.C. Case No. 51 of 2016 on proof of proper identification of the appellant/claimant 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.)