

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 1338 of 2024
Abdul Aziz
Versus
Royal Sundaram Alliance General Insurance Co. Ltd. & Anr.

Mr. Muktakesh Das
Ms. Sonali Bag

...for the Appellant/claimant.

Mr. Rajesh Singh

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

Heard on: November 29 2024.

Judgment on: November 29, 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 18th May, 2022 passed by the learned Motor Accident Claim Tribunal cum learned Additional District Judge, Fast Track Court-II, Nadia, Krishnagar in M.A.C. Case No. 13 of 2022.

The injured victim filed an application under Section 166 of the Motor Vehicles Act, 1988 has sustained injury out of an accident which occurred on 05.09.2011 at about 1.00 a.m. acting in the capacity of helper 'khalasi' of a vehicle bearing registration No. WB 41C/7815 driving by his father which

collided with the offending vehicle bearing registration No. WB 25C/8103(truck) at the side of NH-34 near Mongonpara Check Post. Subsequently, the injured victim was shifted to Berhampur N.G. Hospital. Thereafter, referred to NRS Medical College & Hospital and ultimately admitted at Bellona Nursing Home & Diagnostic Centre, Private Ltd. Kolkata on 05.09.2011 was discharged on 29.09.2011 undergoing operation which resulted in 50% of disability.

The Learned Tribunal disposed of the issues framed through a judgment dated 18th May, 2022 awarding a sum of Rs. 4,75,300/- along with an interest at the rate of 6% per annum from the date of filing of application i.e. 03.01.2012.

Heard the rival contentions of the learned advocates for the claimants as well as respondent No.1/insurance company.

The Learned Advocate representing the appellant/claimant submitted that the learned tribunal had erroneously failed to grant the amount under the head of 'future prospect' to the extent of 40%. The Learned Advocate representing the appellant/claimant further submitted that the multiplier with regard to the age of the victim would have been 18 instead of 17 considering the age of the victim on the date of the accident.

The Learned Tribunal has computed the compensation amount disregarding the element of 'future prospect' as well as the multiplier which should have been 18 instead of 17 in view of the *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*.

The Learned Advocate for the respondent No.1/insurance company did not dispute the occurrence of the accident and the ancillary issues concerning

the driving licence, disability certificate, the involvement of the offending vehicle, the route permit, the insurance policy, etc.

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. 4,75,300/- is modified as follows:

Monthly Income	Rs. 3000/-
Annual Income	Rs. 36,000/-
Disability 50%	Rs. 18,000/-

	Rs. 18,000/-
Multiplier to be “18”	
	Rs. 18,000/-
	X 18

	Rs. 3,24,000/-
Future Prospect to be added(40%)	Rs. 1,29,600/-
Pain and suffering	Rs. 4,53,600/-
Medical Bill	Rs. 50,000/-
Loss of amenities	Rs. 99,300/-
	Rs. 20,000
Less Award	Rs. 6,22,900/-
	Rs. 4,75,300/-
Entitlement	Rs. 1,47,600/-

The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 4,53,600/-. The appellant/claimant is entitled to a sum of Rs. 1,47,600/- 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. 1,47,600/- 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 as mentioned in the award passed by the learned Motor Accident Claim Tribunal cum learned Additional District Judge, Fast Track Court-II, Nadia, Krishnangar, Nadia M.A.C. Case No. 13 of 2022 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.)