

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

**F.M.A.T 333 of 2021
(CAN 2 of 2023)**

**Mamoni Chakraborty (Biswas) & Ors.
Versus
The New India Assurance Co. Ltd. & Ors.**

Mr. Muktakesh Das

...for the Appellants/claimants.

Mr. Rajdeep Bhattacharya

...for the Respondent No.1.

Mr. Rajesh Singh

...for the Respondent No.4

Heard on: November 08, 2024.

Judgment on: November 08, 2024.

Ananya Bandyopadhyay, J:-

The learned advocates representing the appellants/claimants as well as respondent No.1 to 4 are present.

The instant appeal has been filed against the judgment and award dated 27th September, 2019 passed by the learned Motor Accident Claims Tribunals, cum Additional District Judge, Fast Track Court II, Krishnanagar, Nadia in M.A.C. Case No. 410 of 2015.

The learned advocate representing the appellants/claimants submitted that the compensation amount was calculated without granting rate of interest to be paid by the respondents/ insurance companies.

The learned advocates representing the respondent nos. 1 to 4 submitted that the learned tribunal erroneously calculated the amount to be Rs.66,000/- instead of Rs.56,000/- as mentioned in Serial No. 4 of the tabulation denoted in page 7 of the impugned judgment and order.

The learned Advocate for the respondents/insurance companies did not dispute the occurrence of the accident, the involvement of the offending vehicle, the route permit, the insurance policy, etc.

Under such circumstances, this Court restricts itself only to the extent to grant the compensation after rectifying the amount of Rs.66,000/- to be Rs.56,000/- as mentioned in Serial No. 4 of the tabulation with regard to personal expenses to the extent of 1/3rd of Rs.84,000/- to be Rs.28,000/- and the said amount of Rs.28,000/- to be deducted from Rs.84,000/- which equals to Rs.56,000/-.

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. 11,26,000/- is modified as follows:

Monthly income	Rs. 5000/
Annual Income	Rs. 60,000/-
	Rs. 60,000/-
Future Prospect to be added(40%)	Rs. 84,000/-

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

² (2009) 6 SC 121

Less 1/3 rd Personal Expenses	Rs. 28,000/- -----
	Rs. 56,000/-
Multiplier to be “16”	X 16

General Damages	Rs. 8,96,000/-
	Rs. 70,000/-

	Rs. 9,66,000/-

It was further submitted by the learned advocate representing the respondent no.1 to have deposited the principal amount as awarded by the impugned judgment. The learned advocate representing the respondent no.4 submitted that the said Insurance Company did not deposit the principal amount. The learned advocate representing the respondent no.4 is to deposit the principal amount to the extent of half of the compensation as awarded by this Court along with an interest @ 6% per annum till the date of realization of the same.

The learned advocate representing the respondent no.1 is to deposit the rate of interest on half of the amount of compensation @ 6% per annum till the date of its actual realization. Differential amount, if any, is to be adjusted with the interest payable by the respondent no.1.

The compensation amount is to be awarded in the proportion as mentioned in the impugned judgment and order with regard to the number and name of the claimants mentioned therein.

The learned advocate representing the respondent nos.1 to 4 jointly submitted that six other claim cases are pending at different learned tribunals across the State. Consequently, the same accident as in the instant case.

It is categorically stated that the result of the instant FMA will not have any effect whatsoever on the merits and conclusiveness of the observations of the respective learned tribunals dealing with those six claim cases individually.

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 learned Motor Accident Claims Tribunals, cum Additional District Judge, Fast Track Court II, Krishnanagar, Nadia in M.A.C. Case No. 410 of 2015 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 connected application if any stands disposed of.

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

c.m.

(Ananya Bandyopadhyay, J.)