

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMAT(MV) 237 of 2022
Chaitali Chakraborty & Ors.
v.

The New India Assurance Co. Ltd. & Anr.

Ms. Sima Ghosh

... for the appellants/claimants.

Mrs. Gopa Das Mukherjee

... for the respondent no.1/insurance company.

Heard on: 24th September, 2024.

Judgment on: 24th September, 2024.

Ananya Bandyopadhyay, J:-

The learned advocates for the appellants as well as respondent Nos. 1 are present.

The instant appeal has been preferred by the appellants/claimants against the Judgment and award dated 28th February, 2019 passed by the learned Judge, Motor Accident Claim tribunal, 3rd Court, Berhampore, Murshidabad in M.A.C. Case No.454 of 2016.

The learned advocate for the appellants/claimants disputed the monthly income of Rs. 3000/- per month considered by the learned tribunal in determining the compensation amount and the same has been challenged in the instant appeal.

The learned advocate for the appellants/claimants emphasized the fact of being a consumer of industrial electricity connection thereby stating that the deceased victim had income of Rs. 8000/- per month to substantiate the claim in respect of the electricity consumption.

The learned advocate for the respondent Nos.1/insurance company submitted that the income of the claimant was not convinced through document and the learned tribunal had rightly considered the monthly income of the deceased victim to Rs. 3000/- per month. Since, the other components of computation of compensation amount have not been disputed, this Court restrict itself only to the extent of considering the monthly income of the victim in connection of his death in an accident which occurred on 14.08.2016 at about 3.15 hours at Sagardighi with the involvement of the offending vehicle bearing registration No. WB 58AE/7383 whereby the victim succumbed to his injuries. Consequently, an application under Section 166 of the Motor Vehicles Act had been filed.

The learned tribunal after disposing of the issues framed upon appreciation of evidence computed the compensation amount under challenge. The appellants/claimants being P.W.1 the wife of the deceased victim deposed the victim to have been engaged in the business of "oil mill" earning an income of Rs. 8000/- per month without producing any documents to that effect apart from an electric bill pertaining to commercial consumption. Considering the fiscal index and uncontrovered testimony of P.W.1 with regard to the avocation of the victim's monthly income is considered to be Rs.6000/- per month which is not improbable.

Considering the observations of the Hon’ble Apex Court Pranay in *National insurance company Ltd. Vs. Pranay Shetty & Anr¹* and *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr²*, the impugned award of Rs. 5,97,000/- is modified as follows:

Monthly Income	Rs. 6000/-
Annual Income	x 12
	Rs. 72,000/-
Future Prospect to be added(40%)	Rs. 28,800/-

	Rs. 1,00,800/-
	Rs. 25,200/-
Less 1/4 th Personal Expenses	Rs. 75,600/-
Multiplier to be “15”	Rs. 75,600/-
	X 15
	Rs. 11,34,000/-
General Damages	Rs. 77,000/-

Less Award	Rs. 12,11,000/-
	Rs. 6,37,000/-
Entitlement	-----
	Rs. 5,74,000/-

The learned advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs.6,37,000/-. The appellants/claimants are entitled to a sum of Rs.5,74,000/- along with 6% interest per annum to be paid from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its realization.

The learned advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 5,74,000/- along with 6 % per cent interest per

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

² (2009) 6 SC 121

annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within eight weeks from the date of passing of this order.

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 Claim tribunal, 3rd Court, Berhampore, Murshidabad in M.A.C. Case No.454 of 2016 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Courts 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.)