

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 764 of 2024
Aspiya Molla
Versus
National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy
Mr. Subhabrata Ghosh

...for the Appellant/claimant.

Ms. Sucharita Paul

...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 24.01.2024 passed by the learned Motor Accident Claim Tribunal cum learned Additional District Judge, 8th Court, Alipore in M.A.C. Case No. 32 of 2016.

The appellant/claimant filed an application under Section 166 of the Motor Vehicles Act, 1988 owing to the death of her son in an accident which occurred on 26.02.2008 at 7.30 p.m. near Bagnan Shyampur Road with the involvement of an offending vehicle bearing registration No. WB-29-0814 being

Lorry which approached in rash and negligent manner whereby the victim succumbed to his injuries.

The Learned Tribunal disposed of the issues framed through a judgment dated 24.01.2024 awarding a sum of Rs. 3,34,000/- along with an interest at the rate of 6% per annum from the date of filing of application.

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 erroneously did not grant the compensation under the head of 'future prospect' to the extent of 40%.

The Learned Advocate representing the respondent Nos.1/insurance company submitted that the multiplier with regard to the age of the victim has been considered as 17 instead of 18. Since the occurrence of the accident and the ancillary issues concerning the driving licence, the involvement of the offending vehicle, the route permit, the insurance policy, etc. have not been disputed, this Court restricts only to the extent of grant of 'future prospect' to the extent of 40% as well as the multiplier of 17 instead of 18 in the context of the age of the victim at the relevant time of the accident.

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. 3,34,000/- is modified as follows:

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

² (2009) 6 SC 121

Monthly Income	Rs. 3000/-
Future Prospect to be added(40%)	Rs. 1200/-
Annual Income	Rs. 4,200/-
	12
	Rs. 50,400/-
Multiplier to be “17”	X 17
	Rs. 8,56,800/-
	Rs. 4,28,400/-
Less of ½ for personal expenses	Rs. 4,28,400/-
General Damages	Rs. 36,000/-
	Rs. 4,64,400/-
Less Award	Rs. 3,34,000/-
Entitlement	Rs. 1,30,400/-

The Learned advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 3,34,000/-. The appellant/claimant is entitled to a sum of Rs. 1,30,400/- along with 6% interest per annum to be paid from the date of filing of the application i.e. 09.06.2016 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. 1,30,400/- 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, 8th Court, Alipore M.A.C. Case No. 32 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.)