

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1039 of 2024

Go Digit General Insurance Ltd.
v.
Kalpana Sharma & Ors.

Mr. Soumalya Ganguli ... for the appellant/insurance company.

Mr. Jayanta Mondal
Mr. Sayantan Rakshit ... for the respondents/claimants.

Heard on: November 05, 2024.

Judgment on: November 05, 2024.

Ananya Bandyopadhyay, J:- Both the learned advocates representing the appellant/insurance company as well as the respondents/claimants are present.

The instant appeal had been filed against the judgment and award dated 6th February, 2024 passed by the learned Judge, Motor Accident Claims Tribunal – cum- Additional District Judge, Fast Track Court, Bankura in M.A.C. Case No. 20 of 2020.

The learned advocate representing the appellant/insurance company submitted that the impugned judgment and order dated 6th February, 2024 was erroneous to the extent that the learned Tribunal did not consider the deduction of 50% towards personal expenses from the amount reduced as the future

prospect as well as erred in granting consortium to the extent of Rs.88,000/- to the respondents/claimants in case of the death of her bachelor son.

The learned advocate representing the respondents/claimants did not refute the contentions of the learned advocate for the appellant/insurance company. The MAC Case No.20 of 2020 was filed by the respondents/claimants on account of the accident that occurred on 23rd January, 2020 at about 7.00 p.m. on Dhaldanga - Puabagan pitch road near Puabagan Engineering College in Bankura District with the involvement of the offending vehicle being a truck bearing Registration No. WB - 23E/0531 whereby the victim succumbed to his injuries at BSMC&H on 30.01.2020.

The learned Tribunal disposed of the issues framed and assailing the evidence adduced on behalf of the parties. The learned Tribunal pronounced the impugned judgment and order, since the parties did not agitate or controvert the ancillary issues with regard to the occurrence of the accident driving licence, insurance policy and route permit etc. This Court restricts itself only to the extent of erroneous calculation as reflected from the impugned judgment and order.

In view of the observation of the Hon'ble Supreme Court in the decisions cited in in ***National insurance company Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.²***

The impugned award of Rs. 7,03,100/- is modified as follows:

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

² (2009) 6 SC 121

Monthly Income	Rs. 7000/-
Annual Income	X 12
	Rs. 84,000/-
	Rs. 33,600/-
Future Prospect to be added(40%)	-----
	Rs. 1,17,600/-
Less ½ Personal Expenses	Rs. 58,800 /-
(victim is Bachelor)	X 17
Multiplier to be “17”	Rs. 9,99,600/-
	Rs. 9,99,600/-
Conventional Head	
Loss of Estate 15,000/-	Rs. 33,000/-
Funeral Expenses 15,000/-	
Add (10%) 3,000/-	Rs. 10,32,600/-
33,000/-	

It was further submitted by the Learned Advocate as aforesaid that the Appellant/Insurance Company has deposited the entire awarded amount along with interest of 6 % per annum from the date of filing of the claim application i.e. 17,59,140 as per the challan filed by the learned advocate for the Appellant/Insurance company.

The respondents/claimants are entitled to receive the balance amount of Rs. 10,32,600/- along with interest at the rate of 6% per cent per annum from the date of filing of the application(10.02.2020) till the date of actual realization.

The office of the learned Registrar General, High Court, Calcutta shall encash the cheque stipulating the entire calculated amount as aforesaid and thereafter disburse the same to the present respondents/claimants as mentioned in the impugned judgment order dated 6th February, 2024 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court, Bakura in M.A.C. Case No. 20 of 2020 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount if any through a cheque to

the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

The interest accrued on the sum of money deposited by the Appellant/Insurance company at the office of the Learned Registrar General, High Court at Calcutta which was further deposited in the Nationalized Bank by the office of the Learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on Rs. 10,32,600/-is to be disbursed in favour of the respondents/claimants and the balance sum of interest to be refunded to the Insurance Company through distinct account payee cheques.

The instant appeal being FMA 1039 of 2024 is disposed of accordingly.

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

(Ananya Bandyopadhyay, J.)

S.R/c.m.
