

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 683 of 2023

Ramchandra Maiti

v.

The National Insurance Co. Ltd & Ors.

Mr. Amit Ranjan Ray

Mr. Pradyut Kumar Ray ...for the Appellant/claimant.

Mr. Debnarayan Ray

...for the Respondents No.1/Insurance company.

Heard on: September 18, 2024.

Judgment on: September 18, 2024.

Ananya Bandyopadhyay, J:- Both the learned Advocates for the appellant/claimant and the respondents No.1/insurance company are present.

The instant appeal has been filed by the appellant/claimant agitating against the impugned award dated 23rd February, 2016 passed by the Motor Accident Claims Tribunal, Additional District & Sessions Judge, 3rd Court, Tamruk, Purba Medinipur in MACC Case No.210 of 2014.

The learned advocate for the appellant/claimant submitted that the learned Tribunal disregarded the avocation of the injured victim to have been involved in the business of 'bakery' as per the document marked as Annexure-X and X1 being the documents concerning registration and licence respectively issued in favour of the victim regarding his enlistment in the Gram Panchayat, Purba Medinipur permitting him to run the 'bakery business'.

The Learned Tribunal has disposed of the issues framed and on appreciation of both oral and documentary evidence and considering the notional income of the victim to be Rs. 3000/- per month assessed the compensation amount vide judgment and award dated 23rd February, 2016 which is under challenge in the present appeal.

The occurrence of the accident, the driving licence, route permit and other ancillary issues have not been opposed by the learned advocate for the respondent Nos. 1/insurance company.

The victim sustained injury out of an accident, which occurred on 13.03.2013 at about 6.00 p.m. with the involvement of the offending vehicle being a motorcycle bearing registration No.WB-30E/5610 which approached the victim as he was standing on the Digha – Mechada Pitch Road and incidentally hit by the offending vehicle sustained injury to the extent of 45% as determined by the document marked as Exhibit-7 issued by the Holdia Sub-divisional Hospital, Basudebpur, Purba Medinipur. The learned Tribunal erred in not considering the “future prospect” to be granted to the injured victim. However, the medical expense incurred by the victim was reimbursed.

Considering the avocation of the victim to be in a ‘bakery business’ in the rural background, monthly income of Rs.5,000/- cannot be improbabilized.

The multiplier with regard to the age of the victim is to be considered as 14 instead of 15 computing the observation of the Hon’ble Apex Court in *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*

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. 5,50,000/- is modified as follows:

Monthly Income	Rs. 5000/-
	X 12
Annual Income	-----
	Rs. 60,000/-
Disability (45%) (60,000 x 45%)	Rs. 27,000/-
Future Prospect to be added(25%)	Rs. 6750/-
	Rs. 33750/-
	X 14
Multiplier to be “14”	-----
	Rs. 4,72,500/-
Medical Expenses	Rs. 207000/-

Add: pain & injury	Rs. 6,79,500/-
	Rs. 1,00,000/-
	Rs. 7,79,500/-

Less awarded amount	Rs. 5,50,000/-
	Rs. 2,29,500/-

It was further submitted by the learned advocate for the appellant/claimant that the appellant/claimant has received a sum of Rs. 5,50,000/-. The appellant/claimant is entitled to receive the balance amount of Rs. 2,29,500/- at the rate of 6% per cent per annum from the

1 2017(4)TAC 673(S.C)
² (2009) 6 SC 121

date of filing of the claim application (06.05.2013) till the date of actual realization.

The respondent Nos. 1/insurance Company is to deposit the balance amount of Rs. 2,29,500/- along with interest at the rate of 6 % per cent per annum 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 cheque stipulating the entire calculated amount as aforesaid and thereafter disburse the same to the present appellant/claimant as mentioned in the impugned award dated 23rd February, 2016 passed by the Motor Accident Claims Tribunal, Additional District & Sessions Judge, 3rd Court, Tamluk, Purba Medinipur in MACC Case No.210 of 2014 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court fees.

The instant appeal is disposed of accordingly.

Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

S.R./c.m.