

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA No. 1186 of 2024
Tusi Mondal & Ors.

v.

The Oriental Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

... for the appellants/claimants.

Mr. Sanjay Paul
Ms. Jaita Ghosh

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

Heard on: 3rd October, 2024.

Judgment on: 3rd October, 2024.

Ananya Bandyopadhyay, J:-

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

The instant appeal has been filed against the judgment and award dated 31st August, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, cum Judge Special Court (E.C. Act Berhampore Murshidabad) in M.A.C. Case No. 170 of 2018.

The claimants have filed an application under Section 166 of the MV Act claiming compensation to the tune of Rs.10,00,000/-. The victim aged about 31 years died out of an accident which occurred on 01.05.2018 at about 11.30 p.m. with the involvement of the offending vehicle being a Truck

bearing Registration No. WB025-9811 which approached in a rash and negligent manner and collided with the vehicle bearing Registration No. WB-58AF-8004 wherein the victim had been the owner cum driver. Subsequently, the victim succumbed to his injuries at Murshidabad Medical Collages and Hospital. The learned advocate for the appellants/claimants disputed the income of the victim as Rs. 5100/- assessed by the learned tribunal in M.V. Case No. 170 of 2018 discarding the claim of the petitioner NO.1 the wife of the victim to be Rs. 6000/- per month. It was further submitted that the aspect of future prospect and general damages had been wrongly calculated and the percentage of interest was inadequate.

The learned advocate for the respondent Nos. 1/insurance company opposed the contentions of the learned advocate for the appellants/claimants and further submitted that the appellants/claimants did not produce any documentary evidence to prove the monthly income of the victim to be Rs. 6000/- and the learned tribunal had rightly assessed the amount of compensation. The driving licence of the victim was marked as Ext.5 and the deposition of the P.W.1 being the wife of the victim stating the monthly income of the victim to be Rs. 6000/- per month working as a driver could not be improbable considering the fiscal index prevalent at the relevant time of the accident.

The learned advocate for the respondent No.1/insurance company did not dispute the occurrence of the accident, the involvement of the offending vehicle, the route permit, the insurance policy.

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
Future Prospect to be added(40%)	Rs. 72,000/- Rs. 28,800/- -----
	Rs. 1,00,800/- Rs. 33,000/- -----
Less 1/3 rd Personal Expenses	Rs. 67,200/-
Multiplier to be "16"	Rs. 67,200/- X 16 -----
General Damages	Rs. 10,75,200/- Rs. 77,000/- -----
Less Award	Rs. 11,52,200/- Rs. 6,70,000/- -----
Entitlement	Rs. 4,81,400/-

The learned advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs.6,70,000/-. The appellants/claimants are entitled to a sum of Rs.4,81,400/- 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. 4,81,400/- along with 6 % per cent interest per annum from the date of filing of the claim application before the office of

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

² (2009) 6 SC 121

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 amount to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, cum Judge Special Court (E.C. Act Berhampore Murshidabad) in M.A.C. Case No. 170 of 2018 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.)