

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA No.3854 of 2016
The Oriental Insurance Co. Ltd.

vs.

Pampa Goswami & Ors.

with

COT 126 of 2024

Pampa Goswami & Anr.

Vs.

The Oriental Insurance Co. Ltd & Anr.

Mr. Parimal Kumar Pahari

... for the appellant /insurance company.

Mr. Krishanu Banik

Mr. Tathagata Banik

... for the respondent Nos. 1 and 2/claimants.

Heard on: December 6, 2024.

Judgment on: December 6, 2024.

Ananya Bandyopadhyay, J:-

1. The Learned advocates representing the appellant/insurance company as well as respondent Nos. 1 and 2/claimants are present.
2. The instant appeal had been filed against judgment and award dated 24th March, 2017 passed by the Learned Judge, Motor Accident Claims Tribunal and Additional District Judge, 7th Court at Barasat, North 24 Parganas in M.A.C. Case No. 4 of 2012.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants claiming compensation on account of the death of the victim in an accident which occurred on 24.08.2007 at about 14.25 hours on Jessore Road near Chakdah more, with the involvement of the offending vehicle being a bus bearing registration No. WBB/2237 which being driven rashly and negligently hit the victim who was approached near Chakdah more at Jessore road on his motor cycle accompanied by another person. The victim and his companion i.e. Hiranmoy Ghosal succumbed to the injuries sustained by them.

4. The Learned Advocate representing the appellant/insurance company refuted the involvement of the offending vehicle in the said accident. More-over, the income of the claimant could not be established either through oral or documentary evidence.
5. The Learned Advocate representing the respondent Nos. 1 and 2/claimants had filed a cross objection being COT 126 of 2014 claiming the sum of money to be awarded for the criteria of “future prospect” as well as general damages which the Learned Tribunal failed to grant. Considering the observations of the Hon’ble Apex Court in *National insurance company Ltd. Vs. Pranay Shetty & Anr¹* and *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.²* The impugned award of Rs. 3,45,500/- is modified as follows:

Monthly Income	Rs. 3000/-
Annual Income	Rs. 36,000/-
	Rs. 14,400/-
Future Prospect to be added(40%)	Rs. 50,400/-
	Rs. 16,000/-
Less 1/3 rd Personal Expenses	Rs. 33,600/-
Multiplier to be “15”	x 15
	Rs. 5,04,000/-
General Damages	Rs. 84,000/-
	Rs. 5,88,000/-
Entitlement	Rs. 5,88,000/-

6. It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company had deposited two distinct cheuques i.e. Rs. 25,000 + Rs.5,31,539/- totaling Rs. 5,56,539/. The Learned Advocate representing the appellant No.1/insurance company is directed to deposit the remaining balance amount within 12 weeks from the date of passing of this judgment.
7. The respondent Nos. 1 and 2/claimants are entitled to receive the balance amount of Rs. 5,88,000/-at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

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8. The office of the Registrar General, High Court at Calcutta is directed to calculate the award passed by this Court today together with interest as aforesaid and disburse the same to the present respondent Nos. 1 and 2/claimants within 14 weeks as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, and Additional District & Sessions Judge, 7th Court, Barasat North 24-Parganas in M.A.C. Case No. 4 of 2012 and sum of interest accrued on the aforesaid amount is to be disbursed in favour of the present respondent Nos. 1 and 2/claimants on proof of proper identification of the respondent Nos. 1 and 2/claimants subject to payment of ad valorem Court's fee.
9. The instant appeal and COT are disposed of accordingly.
10. The interim order if any stand vacated.
11. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

c.m. Ar. Ct.

(Ananya Bandyopadhyay, J.)