

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 925 of 2023

Cholamandalam Ms General Insurance Co. Ltd.

vs.

Alenur Bibi & Ors.

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

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

Heard on: December 19, 2024.

Judgment on: December 19, 2024.

Ananya Bandyopadhyay, J:-

The learned advocates representing the appellant/insurance company as well as respondents/claimants are present.

The instant appeal has been filed against the judgment and order dated 26th June, 2023 passed by the learned Judge, Motor Accident Claims Tribunal, cum learned Additional District Judge, 1st Court, Bakura in MAC Case No. 131 of 2018.

An application under Section 166 of the Motor Vehicles Act had been filed by the respondents/claimants seeking compensation on account of the death of the victim in an accident which occurred on 8.10.2018 at about 11.00 a.m. on Patrasayer Burdwan pitch road near Krishnanagar Bazar under Patrasayer police station under the District of Bakura, with the involvement of the offending vehicle bearing Registration No. WB-67A/5059 which had at an exceeding speed rashly and negligently hit the victim from behind, resulting in injuries sustained by him to which he succumbed at BSMCH, Bankura.

The Learned advocate representing the appellant/insurance company submitted that the Learned Tribunal has erroneously computed the multiplier to be 16 instead of 15 in the context of the age of the victim. More-over, the learned advocate representing the appellant/insurance company further stated that the Learned Tribunal in absence

of oral as well as documentary evidence considered the monthly income of the victim to be Rs. 6000/- being excessive. The learned advocate representing the appellant/insurance company further submitted that the rate of interest considered by the learned Tribunal was of 7% which was on the higher side.

The learned advocate representing the respondents/claimants submitted that the general damages should have been awarded to the extent of Rs. 84,000/- instead of Rs. 70,000/-.

The learned advocate for the appellant/insurance company did not dispute the occurrence of the accident, the involvement of the offending vehicle, the route permit, the insurance policy.

This Court restricts itself only to the extent of rectifying the typographical error in the impugned judgment and order.

In page 11 of the impugned judgment multiplier at one place was mentioned 18 and on the subsequent column it was typed as 16 which shall universally be 15 in both the columns. The sum of Rs. 84000/- to be granted under the column of loss of estate, loss of consortium including 20% of Rs. 70,000/- in view of the Hon’ble Apex Court *Pranay in National insurance company Ltd. Vs. Pranay Shetty & Anr.*¹

The impugned award of Rs. 12,79,600 /- is modified as follows:

Monthly Income	Rs. 6000/-
Annual Income	
Future Prospect to be added(40%)	Rs. 72,000/-
	Rs. 28,800/-
	Rs. 1,00,800/-
Less 1/4th Personal Expenses	Rs. 25,200/-
	Rs. 75,600/
Multiplier to be “15”	x 15
	Rs. 11,34,000/-

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

General Damages	Rs. 11,34,000/- Rs. 84,000/- Rs.12,18,000/-
Entitlement	Rs. 12,18,000/-

It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company had deposited the entire awarded amount with an interest of 6 % per annum from the date of filing of the claim application 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. 12,18,000/-at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

The office of the Registrar General, High Court, Calcutta shall encash the cheque and thereafter disburse the same to the present respondents/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, cum learned Additional District Judge, 1st Court, Bakura in M.A.C. Case No. 131 of 2018 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Courts fees and refund the differential amount if any through a cheque to the learned advocate representing the appellant/insurance company for the accounts of the insurance company.

The interest generated on the sum of money deposited by the appellant/insurance company at the office of the Learned Registrar General, High Court at Calcutta which has already been 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 the aforesaid amount is to be disbursed in favour of the respondents/claimants.

The instant appeal is disposed of accordingly.

The interim order if any stand vacated.

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

c.m.

(Ananya Bandyopadhyay, J.)