

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

**FMA 705 of 2023
CAN 1 of 2023
CAN 2 of 2023
CAN 3 of 2024
National Insurance Co. Ltd.
Versus
Rina Das & Ors.**

Mr. Guddu Singh ...for the Appellant/Insurance Company.

Mr. Jagannath Ganguly ...for the Respondents/Claimants.

Heard on: 07.10.2024.

Judgment on: October 07, 2024.

Ananya Bandyopadhyay, J:- Both the Learned Advocates for the appellant/insurance company and the respondents/claimants are present.

The instant appeal has been filed against the judgment and award dated 30th July, 2022 passed by the Learned Motor Accident Claims Tribunals, cum Additional District and Sessions Judge, 7th Court, Barasat, North 24 Parganas in M.A.C. Case No. 549 of 2015.

Learned Advocate appearing on behalf of the appellant/insurance company disputed the grant of compensation by the Learned Tribunal considering the computations denoted in Serial No. 6, 7 and 9 of the table delineated in the impugned judgment and award whereby the sum of Rs. 100000/-, 25000/-, and 100000/- had been granted respectively against the

loss of estate/love and affection, funeral expenses and cost of litigation and loss of consortium.

The Learned Advocate for the respondent/claimants opposed the contention of the Learned Advocate for the appellant/insurance company emphasising that the Learned Tribunal had correctly computed the amount of compensation.

An application under Section 166 of the Motor Vehicles Act had been filed by the claimants seeking compensation for the death of the victim in an accident which occurred on 6th September, 2014 at about 4.00 p.m. with the involvement of the offending vehicle bearing Registration No. WB-04E/1886 (Auto Rickshaw) near Lake Town Police Station due to the rash and negligent driving of the driver of the offending vehicle which hit the victim resulting in his death at N.R.S Medical College and Hospital, eventually.

The Learned Tribunal did not consider the propositions of the Hon'ble Supreme Court as decided in National insurance company Ltd. Vs. Pranay Shetty & Anr. and erroneously granted the amount stipulated in serial No. 6, 7 and 9 of the table as mentioned in the impugned judgment and award.

The Learned Tribunal had granted liberty to the appellant/insurance company to recover the amount of compensation from the owner of the offending vehicle and the said direction of the Learned Tribunal is not interfered with.

The impugned award of Rs. 7,28,749/- is modified as follows:-

Monthly Income	Rs. 3,000/-
Annual Income	X 12
After deducting one third of the personal expense	Rs. 36,000/- - 12000/-
Add Future Prospects (25%)	Rs. 24,000/- Rs. 30,000/- x 13
Multiplier to be "13"	Rs. 3,90,000/-
Loss of estate/love and affection	Rs. 15,000/-
Funeral expenses and cost of litigation	Rs. 15,000/-
Medical expenses	Rs. 1,13,749/-
Loss of consortium	Rs. 40,000/-
Increase of 10% from 2017 on other damages	Rs. 7000/-
	Rs. 5,80,749/-

The application being CAN 3 of 2034 had been filed inter alia, stated that the respondent No.2 expired on 03.10.2018 during the pendency of the appeal filed under Section 166 of the Motor Vehicles Act resulting in MAC Case No. 549 of 2015.

The Learned Advocate for the appellant/insurance company had mentioned the name of the respondent No.2 in cause title of the memo of appeal and the same should be deleted owing to the death of the respondent Nos.2 during the pendency of the aforesaid MAC case No. 549 of 2015.

The impugned judgment and award dated 30th July, 2022 passed by the Learned Motor Accident Claims Tribunals, cum Additional District and Sessions Judge, 7th Court, Barasat, North 24 Parganas in M.A.C. Case No.

549 of 2015 did not mention the name of the respondent No.2 to be one of the claimants to have received the compensation amount in certain proportion.

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 i.e. 10,52,470/- as per the challan filed by the Learned Advocate for the Appellant/Insurance company. The present respondents/claimants is entitled to receive the balance amount of Rs. 5,80,749/- 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 at Calcutta is to deduct the entire amount inclusive of the awarded amount as aforesaid along with an interest of 6 % per annum on the same from the date of filing of the claim application till the date of realization, from the deposited amount in this Court and refund the balance amount through a cheque to the Learned Advocate for the 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 had been further deposited in the nationalized bank by the office of the Learned Registrar General, High Court at Calcutta should be apportioned and the sum of interest accrued on the aforesaid amount should 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 is disposed of accordingly.

The applications are disposed of.

The interim order if any stand vacated.

The Trial Court record be sent down forthwith to the concerned tribunal.

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

(Ananya Bandyopadhyay, J.)