

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 656 of 2024
With
COT 47 of 2023

National Insurance Co. Ltd.
v.
Nilima Sengupta & Ors.

Mr. Rajesh Singh

... for the appellant/insurance company.

Mr. Sanat Kumar Mullick

... for the respondents/claimants.

Heard on: September 20, 2024.

Judgment on: September 20, 2024.

Ananya Bandyopadhyay, J:- The learned advocates for the appellant/insurance company and the respondents/claimants are present.

The instant appeal has been filed by the appellant/insurance company agitating the impugned award dated 23rd August, 2017 passed by the learned Judge, City Civil Court, IInd Bench, Calcutta in disposing of the MAC Case No.117 of 2016.

The learned advocate for the appellant/insurance company as well as the respondents submits that the issue to be determined in the instant appeal is restricted to the extent of the general damages to have been granted as Rs.10,000/- instead of Rs.70,000/- along with an increase of 20% considering

the lapse of years as mentioned in the decision of the Hon’ble Apex Court in *National insurance company Ltd. Vs. Pranay Shetty & Anr*¹.

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

The learned advocate for the appellant/insurance company submitted that the learned Tribunal had granted the option to exercise “pay and recover” the same from the owner of the offending vehicle. The benefit of compensation as accorded to the victim is also under challenge. This Court restricts its decision only to the extent of grant of general damages that is (Rs.40,000 + 15,000 + 15,000) = 70,000/- along with increment of 10% every three years i.e. 20% as of date. The claimants/respondents are entitled to a sum of Rs.84,000/- in respect of the general damages in view of the decision as cited above.

Considering the observations of the Hon’ble Apex Court Pranay in *National insurance company Ltd. Vs. Pranay Shetty & Anr*² and *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*³

The impugned award of Rs. 9,06,080/- is modified as follows:

Monthly Income	Rs. 22,526/-
Less: Personal expenses 1/3 rd	Rs. 7,508/-
	Rs. 15,018/-
	Rs. 15,018/-
Annual Income	x 12

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

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

³ (2009) 6 SC 121

Multiplier to be “5”	Rs. 1,80,216/- X 5
Add: General Damages 20% (70,000+14000)	Rs. 9,01,080/- Rs. 84,000/- Rs. 9,85,000/-

The learned advocate for the appellant/insurance company submits to have deposited a sum of Rs.25,000/- at the office of the Registrar General High Court at Calcutta. The learned advocate for the appellant/insurance company will be at liberty to withdraw the aforesaid sum of Rs.25,000/- deposited as statutory amount with accrued interest.

The respondents/claimants are entitled to receive the balance amount of Rs. 9,85,000/- 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 appellant/insurance Company is to deposit the balance amount of Rs. 9,85,000/- along with interest at the rate of 6 % per cent per annum as aforesaid before the office of the learned Registrar General, High Court Calcutta within three weeks after vacation 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 respondents/claimants as mentioned in the impugned award dated 23th August, 2017 passed by the learned Judge, City Civil Court, 2nd Bench, Calcutta, in MACC Case

No.117 of 2016 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees.

The instant appeal and COT 47 of 2023 application are disposed of accordingly.

The lower court records be sent down to the concerned tribunal forthwith.

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

c.m./S.R

(Ananya Bandyopadhyay, J.)