

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

**F.M.A. No. 1461 of 2022
CAN 1 of 2023
Md. Salim
Versus
ICICI Lombard General Insurance Co. Ltd. & Anr.**

Mr. Jayanta Kumar Mondal
Mr. Sayantan Rakshit

...for the Appellant/claimant.

Mr. Parimal Kumar Pahari

...for the Respondent No.1/insurance company.

Heard on: November 27 2024.

Judgment on: November 27, 2024.

Ananya Bandyopadhyay, J:- Both the learned Advocates representing the appellant/claimant and the respondent No.1/insurance company are present.

The instant appeal had been filed against the judgment and award dated 30th August, 2016 passed by the learned Judge, Motor Accident Claims cum Additional District & Sessions Judge, 17th Court at Alipore in M.A.C. Case No. 35 of 2016.

The learned advocate representing on behalf of the appellant/claimant submitted that the learned tribunal erroneously did not grant the amount with regard to the “future prospect”. The learned tribunal considered the monthly

income of Rs. 3000/- considering the fiscal index at the relevant point of time which should have been Rs. 5000/- per month.

The learned advocate representing the respondent No.1/insurance company submits that the learned tribunal has erroneously considered the multiplier to be 18 instead of 17 considering the age of the victim in terms of the decision of the Hon'ble Apex Court in *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*.

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, etc. and this Court restricts itself only to the issues raised by both the parties during the course of hearing.

Evidently, the 'future prospect' to the tune of 40% was not granted in favour of the appellant/claimant and the multiplier had been erroneously considered to be 18 instead of 17. The accident occurred on 24th March, 2015 in absence of any documentary evidence to prove the income of the victim, considering the fiscal index at the relevant point of time a sum of Rs. 5000/- can be considered to be the notional income at the relevant period of time.

Considering the observations of the Hon'ble Apex Court Pranay in *National insurance company Ltd. Vs. Pranay Shetty & Anr*¹ and *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*², the impugned award of Rs. 9,01,200/- is modified as follows:

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

² (2009) 6 SC 121

Monthly Income	Rs. 5000/-
Annual Income	Rs. 60,000/-
Future Prospect to be added(40%)	Rs. 24,000/-
	Rs. 84,000/-
Multiplier to be “17”	Rs. 84,000/-
	X 17

Pain & Suffering Rs. 1,00,000/-	Rs. 12,13,800/-
Loss of Amenities Rs. 50,000/-	Rs. 3,50,391/-
Future Medical Exp. Rs. 50,000/-	-----
Actual Medical Exp. Rs. 50,391/-	Rs. 15,64,191/-
	Rs. 3,50,391
Less Award	Rs. 9,01,200/-
Entitlement	Rs. 6,62,991/-

The learned advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 9,01,200/-. The appellant/claimant is entitled to a sum of Rs. 6,62,991/- along with 6% interest per annum to be paid from the date of filing of the application i.e. 23.04.2015 till the date of its actual realization.

The learned advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 6,62,991/- along with 6 % per cent interest per annum from the date of filing of the claim application before the office of the learned Registrar General, High Court Calcutta within four weeks from the date of the passing of this judgment.

The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellant/claimant as mentioned in the award passed by the learned Judge, Motor Accident Claims

cum Additional District & Sessions Judge, 17th Court at Alipore in M.A.C. Case No. 35 of 2016 on proof of proper identification of the appellant/claimant subject to payment of *ad valorem* Court's fees.

The instant appeal and connected application are disposed of accordingly.

Copy of the order be sent to the Department as well as concerned tribunal for information.

c.m.

(Ananya Bandyopadhyay, J.)