

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 509 of 2020

**Kamrun Nesha Bibi & Ors.
Versus**

**The Divisional Manager, South Bengal State Transport
Corporation.**

For the Appellant : Mr. Ashique Mondal
Mr. Shahmeraj Alam.

For the Respondents/
SBSTC. : Ms. Debashree Dhamali.

Heard & Judgment on : 25th February, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal has been filed against the judgment and award dated 28th June, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 1st Court, Tamluk, Purba Medinipur in M.A.C. Case No. 252 of 2017.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants owing to the death of the victim in an

accident which occurred on 27th November, 2016 at about 1.00 p.m. at city center in front of Green Kanta on NH-41 with involvement of the offending vehicle being a SBSTC bus bearing registration no. WB-39A/2082 which hit the victim standing on the Kanta on NH-41 at an exceeding speed, rashly and negligently. As a result, victim was transmitted to Haldia S.D. Hospital where the attending doctor declared him dead.

4. Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal did not grant any compensation on account of future prospect as well as disregarded the salary certificate marked as "x" for identification which denoted the monthly income of the deceased victim to be Rs. 15,000/.
5. The learned Advocate representing the respondents/SBSTC submitted that in view of the decision of the Hon'ble Supreme Court in National insurance company Ltd. Vs. Pranay Shetty & Anr. the Learned Tribunal had rightly adjudicated that the victim could not prove as to whether he was self-employed or salaried person. It was further submitted that the income of the victim could not prove and the Learned Tribunal was justified in assessing the monthly income of the victim to be Rs. 3000/-.
6. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues

have not been disputed by the learned advocate representing the respondents/SBSTC, this Court restricts itself only to the extent of considering the monthly income of the victim as well as the aspect of future prospect. The claimants could not prove the monthly income of the victim in view of the salary certificate marked as "x" for identification. The employer of the victim to have salary certificate did not appear before the Learned Tribunal nor the avocation of the victim or detail with regarding to his job profile. However, the accident occurred in the year 2017 and the victim being a 42 years old able bodied person should have earned a sum of Rs. 5000/- per month and the same can be considered to be the notional income not being improbabilised. The Learned Tribunal did not grant any compensation with regard to the future prospect which should have been granted.

7. 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. 4,48,000/- is modified as follows:

Monthly Income	Rs. 5000/-
Annual Income	Rs. 60,000/-
1/4 th Deduction	Rs. 15,000/-
Personal Expenses	Rs. 45,000/-

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

² (2009) 6 SC 121

	Rs. 45,000/-
	Rs. 11,250/-

Future Prospect to be added(25%)	Rs. 56,250/-
	X 14
Multiplier to be “14”	Rs. 7,87,500/-
	Rs. 84,000/-
Non Pecuniary damages	Rs. 8,71,500/-
	Rs. 4,48,000/-
Less Award	Rs. 4,23,500/-
Entitlement	

8. The Learned Advocate for the appellants/claimants submitted that the appellant/claimant has withdrawn a sum of Rs. 4,48,000/-. The appellants/claimants are entitled to a sum of Rs. 4,23,500/- along with 6% interest per annum to be paid from the date of filing of the claim application i.e. 18.05.2017 till the date of its actual realization.
9. The Learned Advocate for the respondents/SBSTC is to deposit the balance sum of Rs. 4,23,500/- along with interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order .
10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 1st Court, Tamluk, Purba Medinipur in M.A.C. Case No. 252 of 2017 on

proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court's fees.

11. The instant appeal is disposed of accordingly.
12. The pending applications if any stands disposed of.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. Ar. Ct.