

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. 1530 of 2018

Smt. Dalia Chatterjee & Ors.

-Vs-

National Insurance Co. Ltd & Anr.

For the Appellants/
Claimants

: Mr. Krishanu Banik

For the Respondent no.1/
Insurance company

: Ms. Sucharita Paul

Heard and Judgment on

: 06/05/2025

Ananya Bandyopadhyay, J.:-

1. The instant appeal was heard earlier and judgment was reserved. However, the matter was listed under the heading **“For Hearing”** for further clarification.
2. The learned advocates representing both the parties are present.
3. The claimant being the victim in the accident filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, Serampore, Hooghly cum Additional District judge, 2nd Court, Serampore, District- Hooghly being MAC Case No.183/2011, claiming an award of Rs.10,00,000/- and more whereby the aforesaid victim was injured due to a road traffic accident on 27.05.2010.
4. The victim, was travelling in a Scorpio car around 4pm when the offending vehicle, a lorry bearing registration no. WB-03-9646 hit their vehicle in a

rash and negligent manner, which resulted in the victim being seriously injured.

5. Based, on a written complaint, Serampore P.S. Case No. 147/2010 dated 27.05.2010 instituted against the driver of the offending vehicle.
6. The owner of the offending vehicle did not appear before the Court to contest the case and the case was heard ex parte against him.
7. National Insurance Co. Ltd. appeared and contested the case.
8. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidences and awarded a sum of Rs.9,46,000/- as compensation to the claimants together with interest payable at 8% per annum.
9. The learned advocate representing the appellants/claimants submitted that the learned Tribunal erroneously considered the monthly income of the victim to be Rs.3,000/- per month. Considering the age of the victim on the date of the accident the future prospect was not assessed to the extent of 10%. The victim suffered permanent disablement to the extent of 100%, which was not considered by the learned Tribunal. Non-pecuniary damages was granted to the extent of Rs.1,50,000/-, which was modicum.
10. The Learned Advocate representing the Respondent No.1/Insurance Company submitted that the learned Tribunal was justified in assessing the compensation, which should not be interfered with.
11. Heard the submissions of the learned advocates representing the respective parties and considered the materials on record.
12. 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 respondent No.1/insurance company, this Court restricts itself only to the extent as agitated by the Learned Advocates representing the both the parties. The accident occurred in the year 2010. The victim claimed to have been self-employed being a supplier of white sand and brick tiles earning Rs.7,000/- per month. However, in absence of documentary evidence, considering his avocation a sum of Rs.3,000/- per month has been rightly considered by the learned Tribunal.

13. In view of the above observation of the Hon'ble Supreme Court in the decisions cited in ***National Insurance Company Ltd. Vs. Pranay Shetty & Anr.***¹ and ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr***² the impugned award is modified as follows: -

Annual Income	Rs.36,000/-
Add 10% Future Prospect	Rs. 3,600/-
Total loss of income 100%	Rs.39,600/-
Multiplier would be 11 as per age (Rs.39,600 X 11)	Rs.4,35,600/-
Medical expenses	Rs.4,00,000/-
Future medical expenses	Rs.3,00,000/-
Non-pecuniary damages (mental stress and pain and suffering, medical attendance, loss of amenities of life, loss of expectation of life, loss of longevity of life i.e. shortening of life, inconvenience, hardship, discomfort, disappoint of life, frustration)	Rs.3,00,000/-

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Total		Rs.14,35,600/-
Less award amount		Rs. 9,46,000/-
Entitlement		Rs. 4,89,600/-

13 The Learned Advocate for the appellants/claimants submitted that the appellant/claimant has withdrawn a sum of Rs. 9,46,000/-. The appellant/claimant is entitled to receive the balance amount of Rs.4,89,600/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

14 The learned advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 4,89,600/- 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.

15 The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants in equal share in MAC Case No.183/2011 passed by the Court of Motor Accident Claims Tribunal, Serampore, Hooghly cum Additional District judge, 2nd Court, Serampore, District- Hooghly being on proof of their proper identifications of the appellants/claimants subject to payment of ad valorem Court's fees within four weeks.

16 The instant appeal is disposed of accordingly.

17 The Trial Court Records shall be sent down to the concerned tribunal forthwith.

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

19 Parties to act upon the server copy of this judgment.

20 The urgent certified copy of this order be provided complying terms and conditions.

(Ananya Bandyopadhyay, J.)

S.R. (A.R.C.)