

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 1412 of 2022
National Insurance Co. Ltd.
Versus
Runu De & Ors.
With
COT 9 of 2021
Runu De & Anr.
Vs.
National Insurance Co. Ltd.& Anr.

Mr. Rajesh Singh

...for the Appellant/Insurance Company.

Mr. Ashique Mondal

...for the Respondent Nos. 1 and 2/Claimants.

Heard on : 12th February, 2025.

Judgment on : 28th February, 2025.

Ananya Bandyopadhyay, J:-

1. Both the learned Advocates for the appellant/insurance company and the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 6th February, 2020 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 3rd Court, Paschim Medinipur in M.A.C. Case No. 144 of 2017.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 25.12.2016 at about 22.00 hours near Garhbeta bus stand with the involvement of the offending vehicle being Trailer bearing registration No. NL-02 N/5938 which approached towards the victim from behind at an exceeding speed, rashly and negligently hit him resulting in his instantaneous death on the spot.
4. The Learned Advocate for the appellant/insurance company submitted that the victim had been a 4th year student of B-Tech semester of Applied Electronics and Instrumentation Engineering Department in Netaji Subhash Engineering College and the Learned Tribunal had considered the monthly income of the victim to be of Rs. 20,000/- on the basis of the evidence adduced by the employer authorised by the member of the aforesaid institute. It was further submitted that the general damages were erroneously granted to the extent of Rs. 2,15,000/- instead of 30,000/-.
5. The Learned Advocate for the respondent Nos. 1 and 2/claimants submitted to have filed a Cross Objection being COT 9 of 2021 wherein he had agitated the Learned Tribunal did not grant any compensation on account of future prospect.
6. Since, the occurrence of the accident, the involvement of the offending vehicle, the route permit, the insurance policy, etc. have

not been disputed by the Learned Advocate representing the appellant/insurance company, this Court restrict itself only to the grievance agitated by the respective parties. Considering the nature of job accorded to a probationer or a fresher, a person out of the same institution in the relevant year, a monthly income of Rs. 15,000/- would have been probable in respect of a first time entrant into any field concerning Applied electronics and instrumental engineering department. The Learned Tribunal should have granted an assessed amount towards future prospect which the claimants were entitled to receive the amount.

Considering the observations of the Hon'ble Apex Court Pranay in *National insurance company Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.²*, the impugned award of Rs. 23,75,000/- is modified as follows:

Income	Rs. 15,000/-
Annual income (Rs. 15,000 x 12)	Rs. 1,80,000/-
Personal expenses (1/2)	Rs. 90,000/-
	Rs. 90,000/-
Future Prospect to be added(40%)	Rs. 36,000/-
	Rs. 1,26,000/-
Multiplier to be "18"	X 18
	Rs.22,68,000/-
Non pecuniary damages	Rs. 36,000/-
	Rs. 23,04,000/-

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

² (2009) 6 SC 121

7. It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company had already deposited the entire awarded sum of Rs.32,71,367/-through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company. The respondent Nos. 1 and 2/claimants are entitled to receive the balance amount of Rs. Rs. 23,04,000/- 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.
8. The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same to the present respondent No.1 and 2/claimants as mentioned in the award passed by learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 3rd Court, Paschim Medinipur in M.A.C. Case No. 144 of 2017 on proof of proper identification of the respondent Nos.1 and 2 /claimants subject to payment of ad valorem Courts fees and refund the differential amount through a cheque to the learned advocate for the insurance company for the accounts of the insurance company.
9. 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 has already been deposited in the nationalized bank by the office of the Learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company for the accounts of the insurance company.

10. The instant appeal and cross objection are disposed of accordingly.
11. The interim order if any stand vacated.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

C.M.

(Ananya Bandyopadhyay, J.)