

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1 of 2024

CAN 3 of 2024

CAN 4 of 2024

National Insurance Co. Ltd.

-Vs-

Asha Lohar & Ors.

For the Appellants : Mr. Sucharita Paul

For the Respondents : Mr. Jayanta Mondal
Mr. Sayantan Rakshit

Heard & Judgment on : 07.05.2025

Ananya Bandyopadhyay, J.:-

In Re: CAN 4 of 2024

1. The Learned Advocate representing the respondents/claimants submitted to have filed an application being CAN 4 of 2024 which *inter alia*, stated that during the pendency of the instant appeal the respondent No.5 i.e. Bhakti Lohar who was the mother of the victim expired on 7th November, 2023 serving by the respondent No.2 to 4 being the granddaughters and grandson of the respondent No.5.

Department is directed amend the cause title of the memo of appeal including the names mentioned in A schedule of the parties.

The application being CAN 4 of 2024 is disposed of.

2. The instant appeal was heard earlier and judgment was reserved.
However, the matter was listed under the heading **“For Hearing”** for further clarification.
3. Five claimants filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track 3rd Court, Sadar, Paschim Medinipur being MAC Case No.57/2021, claiming an award of Rs. 10,00,000/- whereby the victim expired due to a road traffic accident on 03/011/2020 at about 1:30pm. The offending vehicle, being a Maruti van bearing Registration No. WB-33D/2566 was driving in a rash and negligent manner which caused an accident; resulting in the deceased victim who was a passenger to be grievously hurt. He passed away on the spot. Salboni PS Case No. 205/20 dated 15/11/2020 was initiated against the owner of the driver.
4. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him. The respondents, National Insurance Company Limited. contested the aforesaid MAC case.
5. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence awarding a sum of Rs 12,65,500/- with an interest payable at 6% per annum from the date of filing the claim till realization.
6. The Learned Advocate representing the appellant/insurance company stated that the driving licence and route permit were not seized. He

further submitted that the brothers of the victim were not the dependent and were not entitled to the compensation.

7. The Learned Advocate representing the respondents/claimants submitted that the learned Tribunal has rightly assessed the compensation which should not be interfered with.
8. Heard the submission of the learned advocates representing the respective parties.
9. Since the occurrence of the accident and other ancillary issues have not been disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the points agitated by the Learned Advocate representing the appellant/insurance company as well as respondents/claimants.
10. 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. 12,65,500/- is modified as follows:

Monthly Income	Rs. 6000/-
Future Prospect to be added(25%)	Rs. 1500/-
	Rs. 7,500/-
Annual Income (Rs. 7500 x 12)	Rs. 90,000/-
1/4 th Deduction	Rs. 22,500/-
Personal Expenses	Rs. 67,500/-
Multiplier to be " 15"	X 15

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

General Damages Entitlement	Rs. 10,12,500/-
	Rs. 10,12,500/-
	Rs. 77,000/-
	Rs. 10,89,500/-

11. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 14,34,020/=(Rs. 25,000 + 14,10,020/-) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
12. The respondent No.1 to 4/claimants is entitled to receive the amount of Rs. 10,89,500/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 28.01.2021 till the date of actual realization.
13. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited to the respondent Nos. 1 to 4/claimants in M.A.C. Case No. 297 of 2021 on proof of proper identification of the respondent No.1 to 4 /claimants subject to payment of ad valorem Court fees and refund the balance amount if any, through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

14. 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 been further 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 through a cheque to be deposited at the office of the appellant/insurance company.
15. The instant appeal is disposed of accordingly.
16. The interim order, if any, stand vacated.
17. The pending applications, if any, stands disposed of.
18. The TCR be sent down to the concerned tribunal forthwith.
19. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)