

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 467 of 2024

Taslema Khatun & Ors.

v.

The United India Insurance Company Ltd. & Anr.

Mr. Saidur Rahaman ... for the appellants/claimants.

Mr. Parimal Kumar Pahari
... for the respondent no.1/Insurance company.

Heard on & Judgment on: February 19, 2025.

Ananya Bandyopadhyay, J:-

1. The learned advocates representing the respective parties are present.
2. The instant appeal had been preferred against the impugned judgment and award dated 21st December, 2023 passed by the learned Judge, Motor Accident Claims Tribunal Cum Additional District Judge, Fast Track Court-1, Malda in MAC Case No.125 of 2020.
3. An application under Section 166 of the Motor Vehicles Act had been filed for the death of the victim, who claimed to have been a mason earning Rs.450/- per day in an accident, which occurred on 21st May, 2020 at about 8 hours near Pakurtola Stand within the jurisdiction of Ratua Police Station with the involvement of the offending vehicle being a Bolero bearing Registration No.WB-66X/1939. The offending vehicle hit the victim, who was stationed at Pakurtola Stand and subsequently received grievous injury on his body and expired during his treatment in Malda Medical College & Hospital.

4. The learned advocate representing the appellants/claimants submitted that the learned Tribunal considered the monthly income of the victim to be Rs.5,000/- disregarding the fact that he had been a ‘mason’ and was earning about Rs.450/- per day.
5. Considered the submission of the learned advocates representing the respective parties.
6. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have been disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of assessment of monthly income. The accident occurred in the year 2020 and the victim to have earned Rs. 350 per day as a ‘mason’ will not be improbable.
7. Considering the observations of the Hon’ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr.¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr². The impugned award of Rs. 4,57,000/- - is modified as follows:

Monthly Income(Rs. 350.00 x 30)	Rs. 10,500/-
Annual Income	Rs. 1,26,000/-
Future Prospect to be added (40%)	Rs. 50,400/-
1/4 th Deduction	Rs. 1,76,400/-
Personal Expenses	Rs. 44,100/-
	Rs. 1,32,300/-
Multiplier to be “18”	Rs. 1,32,300/-
	X 18
	Rs. 23,81,400/-
General Damages	Rs. 77,000/-
Less Award	Rs. 24,58,400/-
	Rs. 4,57,000/-
Entitlement	Rs. 20,01,400/-

¹ 2017(4) TAC 673 (S.C.)
² (2009) 6 SC 121

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 4,57,000/-. The appellants/claimants are entitled to a sum of Rs. 20,01,400/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application till the date of its actual realization.
9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 20,01,400/- 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 in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal Cum Additional District Judge, Fast Track Court-1, Malda in MAC Case No.125 of 2020 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.)

S.R./c.m. Ar. Ct.