Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

IA No.:CAN/1/2017 (Old No.:CAN/3698/2017),
CAN/2/2017(Old No.:CAN/8231/2017)
in
FMA 1073 of 2021

National Insurance Company Limited
Versus
Kadu Ali Monal @ Sk. & Anr.

With

COT/85/2017

Kadu Ali Monal @ Sk. & Anr.
-Vs.-
National Insurance Company Limited & Anr.

For the Appellants	:	Mr. Parimal Kumar Pahari.
For the Respondents	:	Mr. Amit Ranjan Roy, Mr. Atis Kumar Biswas.
Heard & Judgment on	:	30th April, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present.

2. The instant appeal had been filed against the judgment and award dated 19.12.2016 passed by the Learned Additional District and Sessions Judge, Motor Accident Claims Tribunal, Tehatta, Nadia in M.A.C. Case No. 12 of 2015.
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 who had died in an accident which occurred on 09.06.2010 at about 8:00 A.M. with the involvement of the offending vehicle being a tractor bearing registration no. WB-51/4299 which at an exceeding speed rashly and negligently hit the victim who was the pedestrian on the concrete road proceeding towards Shyamnagar from Tehatta resulting in multiple injuries on his body succumbing to the same at District Hospital, Krishnagar.
4. The learned Advocate representing the appellant/Insurance Company submitted that the learned Tribunal had considered the monthly income of the victim Rs.3,500/- in absence of any oral and documentary evidence. Moreover, Rs.50,000/- was allotted towards loss of consortium instead of Rs.30,000/-, future prospect was granted erroneously to the extent of 50% instead of 40% and an interest to be paid at the rate of 9% from the date of receiving the case by the learned Tribunal from the learned District Judge, Nadia, i.e., on and from 26.06.2015 till the date of payment.

5. The learned Advocate representing the respondents/claimants submitted to have filed a cross-objection for enhancement of the monthly income of the victim claiming the same to be Rs.5,000/- per month being a mason.
6. Since the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent agitated by the individual learned Advocate representing the respective parties. The Tribunal had erroneously granted 50% towards future prospect which should be 40% considering the age of the victim at the time of the accident to be 30 years. Moreover, a sum of Rs.30,000/- should have been granted towards the category of loss of general damages instead of Rs.50,000/- since the victim expired as a bachelor. The interest should be calculated at the rate of 6% per annum from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its realization. Pertinently, nowhere in the examination-in-chief or the application or the evidence on record revealed that the claimant being the father of the victim had been solely dependent on the earnings of the deceased victim. Accordingly, the entire compensation amount should be disbursed in favour of the mother of the victim being the

respondent/claimant no. 2. However, considering the fiscal index prevalent in the year 2007 the monthly income of the victim considered to be Rs.4,000/- and the same is not improbablized.

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. 5,88,000/- is modified as follows:-

Monthly Income	Re. 4,500/-
Add : 40% Future Prospect	Rs. 1,800/-
	Rs. 6,300/-
	X 12
Annual Income	Rs. 75,600/-
Multiplier	X 18
	Rs. 13,60,800/-
Less : 50% Personal Expenses	Rs. 6,80,400/-
	Rs. 6,80,400/-
Add : General Damages	Rs. 39,000/-/-
Total	Rs. 7,19,400/-

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.6,96,953/-/- as per challan filed by the learned advocate representing the appellant/insurance company. The respondent/claimant no. 2 is

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entitled to a sum of Rs. 7,19,400/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization.

9. The Learned Advocate for the appellant/insurance company is to deposit the balance sum of Rs.22,447/- along with 6 % per cent interest per annum from the date of filing of the claim application 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 learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited to the respondent/claimant no. 2 as mentioned in the impugned judgment of the Learned District & Sessions Judge, Motor Accident Claims Tribunal, Tehatta, Nadia in M.A.C. Case No. 12 of 2015 on proof of proper identification of the respondent/claimant no. 2 subject to payment of ad valorem Court fees within four weeks.

11. 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 paid to the respondent/claimant no. 2.

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[2] (2009) 6 SC 121

12. The instant appeal is disposed of accordingly.

13. The pending applications, if any, stands disposed of.

14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

Srimanta, A.R.(Ct.)