

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1000 of 2023

Mamata Ghosh & Ors.

v.

HDFC ERGO General Insurance Company Ltd. & Anr.

Mr. Jayanta Kumar Mondal

Mr. Sayantan Rakshit

... for the appellant/claimants.

Mr. Rajesh Singh

... for the respondent no.1/insurance company.

Heard on: March 19, 2025 and April 16, 2025.

Judgment on: April 16, 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 8th December, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track 3rd Court, Sadar, Paschim Medinipur in MAC Case No.505 of 2016.
3. An application under Section 166 of the Motor Vehicles Act had been filed on account of the death of the victim in an accident, which occurred on 6th April, 2016 at about 5.30 a.m. with the involvement of an offending vehicle being a Motorcycle bearing Registration No.34V-4223, which proceeded at an exceeding speed rashly and negligently and hit the victim, who was working on the concrete road towards Gahrbeta resulting in grievous injuries

sustained by him and eventually succumbed to the same at National Medical College Kolkata on 17th April, 2016.

4. The Learned Advocate representing the appellants/claimants submitted that the learned Tribunal did not consider the documents being the last Income Tax Return marked as Exhibits-10 and 10A. The evidentiary value of the aforesaid documents were disregarded and granted the compensation considering the monthly income of the victim to be Rs.6,000/-.
5. The Learned Advocate representing the respondent no.1/insurance company opposed the submission of the Learned Advocate representing the appellants/claimants stating that the learned Tribunal considering the facts and circumstances of the case as well as the oral and documentary evidence had justifiably granted the compensation and this Court is not inclined to interfere with the same. It was further submitted that a sum of Rs.1,76,000/- was granted towards General Damages, which should be reduced to Rs.77,000/-.
6. Heard the submissions of the learned advocates representing both the parties.
7. 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 Advocate representing the respective parties.
8. The PW3, who happened to be the representative of the Income Tax Office at Medinipur adduced his evidence before the learned Tribunal and the Income Tax Return documents were produced before the learned Tribunal, which were marked as Exhibits-10 and

10A and in view of the plethora of judgments of the Hon’ble Supreme Court, the same should have been considered by the learned Tribunal while assessing the compensation.

9. The learned Tribunal had erroneously granted a sum of Rs.1,66,000/- towards General Damages it should be reduced to the extent of Rs.77,000/-.
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. 13,43,000/- is modified as follows:*

Annual Income (as per last Income Tax Return)	Rs. 2,68,000/-
40% future prospect	Rs. 1,07,200/-
	Rs. 3,75,200/-
¼ deduction for personal expenses	Rs. 93,800/-
	Rs. 281,400/-
Multiplier to be 15	X 15
	Rs. 42,21,000/-
General Damages	Rs. 77, 000/-
	Rs. 42,98,000/-
Less awarded by Tribunal enhancement	Rs. 13,43,000/-
	Rs. 29,55,000/-

11. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 13,43,000/-. The appellants/claimants are entitled to receive the balance amount of Rs.29,55,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
12. The Learned Advocate for the respondent No.1/insurance company is to deposit Rs. 29,55,000/- 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.
13. The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same to the present appellants/claimants

¹ 1 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track 3rd Court, Sadar, Paschim Medinipur in MAC Case No.505 of 2016 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.

14. The instant appeal is disposed of accordingly.
15. The pending applications, if any, stands disposed of.
16. The TCR be sent down to the concerned tribunal forthwith.
17. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

S.R.