

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 412 of 2022
The National Insurance Co. Ltd.
v.
Amela Bibi & Ors.
With
COT 13 of 2025
Amela Bibi & Ors.
vs.
The National Insurance Co. Ltd. & Anr.

Mr. Sanjay Paul ... for the appellant/insurance company.

Mr. Jayanta Kumar Mondal ... for the respondents/claimants.

Heard on & Judgment on: 7th July, 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 August, 2019 passed by the Learned Motor Accident Claims Tribunal, cum Additional District Judge, 3rd Court, Barasat, North 24 Parganas in MAC Case No.64 of 2009.
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 13th March, 2009 at about 10.00

a.m. on Maslandapur Tentulia Road at Khashpur within the jurisdiction of Baduria Police Station with the involvement of the motor cycle bearing registration No. WB-26L/0588 which had an exceeding speed, rashly and negligently clashed the victim resulting in his death subsequently.

4. The Learned Advocate representing the appellant/insurance company submitted the driver of the offending vehicle did not possess a valid driving licence on the date of the accident as per the deposition of DW1 wherein it had been stated that the driver of the offending vehicle had been permitted to drive light motor vehicles. It was further submitted that the Learned Tribunal had erroneously granted the interest to be 9% per annum which had been excessive.
5. The Learned Advocate representing the respondents/claimants submitted the Learned Tribunal instead of deducting 1/5th towards personal expenses had deducted 1/3rd discarding the facts of the claimants being 10 in number. Moreover, the general damages for computing to the extent of Rs. 9500/- instead of Rs. 84000/- and the compensation towards future prospect was not granted.
6. Considered the rival contentions of the Learned Advocates representing the respective 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 consider the point agitated by both the parties. the contention of the Learned Advocate representing the appellant/insurance company cannot be sustained in view of the evidence of D.W.1 wherein the true copy of the driving licence marked as Ext. B was issued in favour of the driver of the offending vehicle which was valid till 12th September, 2027 for driving light motor vehicles which covered the date of the accident. The Learned Tribunal should have granted the compensation towards future prospect to the extent of 10% and 1/5th of the annual income should have been deducted towards personal expenses.

8. The judgment and order passed by the learned Tribunal required to be modified to the following extent:

Monthly Income	Rs. 4000/-
Annual Income (Rs. 4000 x12)	Rs. 48,000/-
Future Prospect to be added(10%)	Rs. 4,800/-
Personal expenses (1/5 th)	Rs. 52,800/-
	Rs. 10,560/-
	Rs. 42,240/-
	x 11
Multiplier to be "11"	
General Damages	Rs. 4,64,640/-
	Rs. 84,000/-
Entitlement	Rs. 5,48,640/-

9. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 6,93,388/=(Rs. 25,000 + 6,68,388) through two separate cheques as per challan

filed by the Learned Advocate representing the appellant/insurance company.

10. The Learned Advocate representing the respondent Nos. 1 to 6/claimants are entitled to receive the amount of Rs. 5,48,640/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
11. The office of the Learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the bank accounts of the present respondents/claimants as mentioned impugned judgment and award passed by Learned Motor Accident Claims Tribunal, cum Additional District Judge, 3rd Court, Barasat, North 24 Parganas in MAC Case No.64 of 2009 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the differential amount if any through a cheque to the Learned Advocate for the insurance company for the accounts of the insurance company. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.
12. The instant appeal and cross objection are disposed of accordingly.
13. The pending application, if any, stands disposed of.

14. The interim order if any stand vacated.
15. The TCR be sent down to the concerned tribunal forthwith.
16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m.