

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 500 of 2023

Champa Rani Chowdhury & Anr.

v.

Magma HDI General Insurance Company Ltd. & Anr.

Mr. Jayanta Kumar Mandal

Mr. S. Rakshit

... for the appellants/claimants.

Ms. Sayanti Santra

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

Heard on: February 19, 2025.

Judgment on: March 06, 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 14th March, 2023 passed by the learned Judge, Motor Accident Claims Tribunal and Additional District & Sessions Judge, Fast Track 2nd Court, Paschim Medinipur in MAC Case No.37 of 2020 (Reg No.37/20).
3. An application under Section 166 of the Motor Vehicles Act had been filed by the appellants/claimants owing to the death of the

victim in an accident, which occurred on 15th September, 2019 at about 4.00 p.m. near Maya Pukur Morh by the side of Chandrakona-Ghatal Pitch Road within the jurisdiction of Ghatal police station with the involvement of the offending vehicle being a truck bearing registration no.WB-39A/3240, which approached at an exceeding speed rashly and negligently hit the victim, who was stationed on the aforesaid road. The victim expired on the way to Ghatal S.D. Hospital.

4. The learned Advocate representing the appellants/claimants submitted that the learned Tribunal considered the monthly income of the victim to be Rs.7,000/- contrary to the decision of the Hon'ble Supreme Court in ***Joginder Singh & Anr. V. ICICI Lombard General Insurance Company, 2019 (4) TAC 3 (SC)***, wherein the Hon'ble Apex Court had granted the monthly income of Rs.15,000/- to a student, who was undergoing training to become an Airhostess. In the instant case the victim had been a student of nursing studying, in 4th year and claimed parity with that of the student pursuing Airhostess Training.
5. The Learned Advocate representing the respondent no.1/insurance company opposed the submission of the learned advocate representing the appellants/claimants stressing the fact that in absence of documentary evidence being adequately professing any

nursing avocation, the learned Tribunal had justifiably granted a sum of Rs.7,000/- to be the monthly income.

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 assessing the monthly income of the deceased victim, who had been a student of 4th year nursing. Since, the victim had been in the final year of her studies on completion of the same would have been adequately placed and to have earned Rs.12,000/- per month and the same would not have been improbable.

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. 11,28,400/- is modified as follows:

Monthly Income	Rs. 12,000/-
Annual Income (Rs. 12,000 x 12)	Rs. 1,44,000/-
Future Prospect to be added(40%)	Rs. 57,600/-
Deduction	Rs. 2,01,600/-
Personal Expenses (50%)	Rs. 1,00,800/-
	Rs. 1,00,800/-
	X 18
Multiplier to be "18"	
	Rs. 18,14,400/-
General Damages	Rs. 33,000/-
	Rs. 18,47,400/-
Less Award	Rs. 11,28,400/-
Entitlement	
	Rs. 7,19,000/-

1 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

7. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 11,28,400/-. The appellants/claimants are entitled to a sum of Rs. 7,19,000/- along with interest at the rate of 6% per annum to be paid from the date of filing of the application till the date of its actual realization.
8. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 7,19,000/- 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 .
9. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal and Additional District & Sessions Judge, Fast Track 2nd Court, Paschim Medinipur in MAC Case No.37 of 2020 (Reg No.37/20) on proof of proper identification of the appellants/claimant subject to payment of ad valorem Court's fees.
10. The instant appeal is disposed of accordingly.
11. The pending applications if any stands disposed of.
12. Copy of the order be sent to the Department as well as learned Tribunal for information.

(Ananya Bandyopadhyay, J.)

