

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 635 of 2023

**Cholamandalam MS General Insurance Co. Ltd.
Versus
Samapti Koley & Ors.**

For the Appellant
Insurance co.

: Mr. Soumalya Ganguli

For the Respondent Nos. 1 to 4
claimant

: Mr. Subhankar Mondal

Heard on & Judgment on

: 20th March, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants giving rise to MAC case No. 120 of 2018. The learned Tribunal after disposing of the issues framed pronouncing the impugned judgment and order on 25th November, 2022 which *inter alia* stated as follow:

"that the M.A.C. case No. 120 of 2018 be and the same is allowed on contest.

The claimant no.2 mother and claimant no.1/wife are entitled to get Rs. 11,50,865/- and Rs. 11,50,865 respectively and each of the daughters i.e. claimant Nos. 3 and 4 are entitled to get Rs. 11,30,865/- as compensation along with interest @ 9% per annum from the date of filing of the claim petition (04.06.2018) till the date of payment.

The O.P. No.2 (Chola Mondalam M/S. General Insurance Co. Ltd.) is directed to pay the said amounts of the compensation to claimants namely Samapti Koley (wife of the deceased), Gita Rani Koley (Mother of the deceased), Nabanita Koley (Daughter of the deceased) and Prarona Koley (Minor daughter of the deceased) along with interest @ 9% per annum from 04.06.2018 till the date of payment through account payee cheques within two (2) months from the date of passing of this judgment.

The amount of compensation payable to the claimant No.4 Prarona Koley, minor daughter of the deceased, shall be made in the name of her mother Samapti Koley, claimant No.1 who is directed to fix the said sum in the name of Prarona Koley in a nationalized bank till she attains her majority”.

3. Learned Advocate representing the appellant/insurance company had filed the instant appeal only on the limited issue of an excess rate of interest to have been accorded to the extent of 9 % per annum on the compensation amount to be paid from the date of filing of the claim application i.e. 04.06.2018 till the date of realization.
4. The Learned Advocate representing the respondent Nos.1 to 4/claimants submitted that the general damages to the extent of Rs. 70,000/- was not considered by the Learned Tribunal to

the principles of the Hon'ble Supreme Court as laid down in *National insurance company Ltd. Vs. Pranay Shetty & Anr.*

5. 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 appellant/insurance company, this Court restricts itself only to the extent of modifying the rate of interest. The appellant/insurance company is to pay compensation in accordance with the impugned judgment and order pronounced in MAC Case No. 120 of 2018. The rate of interest should be 6 % per cent per annum from the date of filing of the claim application till the date of its actual realization.
6. 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 & Anr.*² The impugned award of Rs. 44,43,461/- is modified as follows:

Annual Income	Rs. 3,62,130/-
Future Prospect to be added(25%)	Rs. 90,533/-
Deduction towards personal &	Rs. 4,52,663/-
Living expenses 1/4 th	Rs. 1,13,166/-
	Rs. 3,39,497/-
	X 13
Multiplier to be "13"	
	Rs. 44,13,461/-

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

² (2009) 6 SC 121

General damages Entitlement	Rs. 44,13,461/-
	Rs. 70,000/-
	<u>Rs. 44,83,461/-</u>

7. The respondent Nos.1 to 4/claimants are entitled to a sum of Rs. 44,83,461/- along with 6% interest per annum to be paid from the date of filing of the claim application i.e. 04.06.2018 till the date of its realization.
8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of 67,00,161 along with an interest of 6 % per annum from the date of filing of the claim application as per the challan filed by the Learned advocate for the Appellant/Insurance company.
9. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present respondent Nos.1 to 4/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum FTC 2nd Court, Howrah in M.A.C. Case No. 120 of 2018 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's 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.
10. 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 been further deposited in the nationalized bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company through a cheque to be deposited at the office of the appellant/insurance company.

11. The instant appeal is disposed of accordingly.
12. The interim order if any stand vacated.
13. The pending applications if any stands disposed of.
14. The TCR be sent down to the concerned tribunal forthwith.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)