

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 959 of 2024

Sk. Sabina & Anr.

vs.

Shriram General Insurance Co. Ltd. & Anr.

For the Appellants : Mr. Krishanu Banik
Mr. Tathagata Banik

For the Respondents : Mr. Rajesh Singh

Heard on & Judgment on : 08.05.2025

Ananya Bandyopadhyay, J.:-

1. The instant appeal was heard earlier and judgment was reserved.

However, the matter was listed under the heading ***“For Hearing”*** for further clarification.

2. The Learned Advocates representing the respective parties are present.

3. The claimants of the deceased filed an application under Section 166 of the Motor Vehicles Act before the Motor Accident Claims Tribunal, Fast Track, 1st Court, Bardhaman being MAC Case No. 07 of 2016, seeking compensation on account of the death of the said Nuralam Sk. In a motor accident. The case of the claimants was that on 20.06.2013 at about 4.30 p.m., while the deceased was proceedings along G.T. Road near the shop Langcha Niloy at Saktigarh Amra, P.S. Burdwan, he was stuck by a speeding truck bearing registration no. WB 25D/7353, which was being driven in a rash and negligent manner at the relevant point of

time. As a result of the said accident, the deceased sustained severe injuries and succumbed to the same. The said incident led to the institution of a criminal case being Burdwan P.S. Case No. 751 of 2013 dated 20.06.2013 under Sections 279/304 of the Indian Penal Code against the driver of the offending vehicle. On the basis of the above facts, the petitioners claimed a total compensation of Rs. 13,50,000/- under various heads. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him. Shriram General Insurance Co. Ltd. Contested the aforesaid MAC case.

4. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded a sum of Rs. 8,31,600/- as well as an interest of 5% from the date of filing the case till the realization of the amount.
5. The Learned Advocate representing the appellants/claimants submitted inadequate compensation of Rs. 8,31,600/- was awarded. In assessing the monthly income of the victim-deceased who was mason by his profession/avocation as Rs. 4000/- instead and in place of Rs. 9000/- per month i.e. Rs. 300 per day x 30 was inadequately considered. The enhanced amount at the rate of 10% in every three years from the date i.e. 31.10.2017 on the conventional heads viz loss to estate, loss of consortium and funeral expenses i.e. Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively following the principle and ratio laid down by the Constitutional Bench of the Hon'ble Apex Court of India in case of National Insurance Company Ltd. Vs. Pranay Sethi reported in 2017 ACJ was not considered.

6. The Learned Advocate representing the respondent No.1/insurance company submitted that the accident occurred in the year 2011 the Hon'ble Supreme Court in Civil Appeal No. 8257 of 2022 had considered the notional income of the victim to be Rs. 3000. The instant appeal pertains to an accident which occurred in the year 2013 and the notional income to be considered as Rs. 4000/- is appropriate.
7. Considered the submission of the Learned Advocates representing both the parties.
8. Since the occurrence of the accident, the driving license and other ancillary issues have not been disputed by the learned advocate representing the appellant/claimant, this Court restricts itself only to the points agitated by the Learned Advocate representing the appellant/claimant as well as respondent No.1/insurance company.
9. 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. 8,31,600/- is modified as follows:

Monthly Income	Rs. 4000/-
Annual Income	Rs. 48,000/-
Future Prospect (40%)	Rs. 19,200/-
	Rs. 67,200/-
1/3 rd Deduction of personal expenses	Rs. 22,400/-
Multiplier "17"	Rs. 44,800/-
	X 17

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

	Rs. 7,61,600/-
	Rs. 7,61,600/-
General Damages	Rs. 77,000/-
Less	Rs. 8,38,600/-
Entitlement	Rs. 8,31,600/-
	Rs. 7000/-

10. The Learned Advocate for the appellants/claimants submitted that the appellant/claimant has withdrawn a sum of Rs. 8,31,600/-. The appellants/claimants are entitled to a sum of Rs. 7000/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application till the date of realization.
11. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 7000/- along with interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within six weeks from the date of passing of this order.
12. 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 by the Learned Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Bardhaman being MAC Case No. 7 of 2016 on proof of proper identification of the appellants /claimants subject to payment of ad valorem Court's fees within four weeks.
13. The instant appeal is disposed of accordingly.
14. The pending applications, if any, stands disposed of.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

