

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 952 of 2024

Cholamandalam MS General Insurance Company Ltd.

-Vs.-

Smt. Jharnarani Das & Anr.

For the Appellants	: Mr. Rajesh Singh
For the Respondents	: Mr. Manabendra Thakur, Ms. Amrita Kumar Biswas Mr. Swarup Kumar Ghosh

Heard on & Judgment on : 7th May, 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 claimant, Smt. Jharnarani Das, being the mother of the deceased victim, filed an application under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Additional District Judge, Ghatal, Paschim Medinipur, being MAC Case No. 05 of 2019, claiming compensation to the tune of Rs. 43,00,000/- (Rupees Forty-Three Lakhs only) for the accidental death of her daughter, Moumita Das, who expired in a road traffic accident on 14.03.2019 at about 02:30 A.M. The offending vehicle, a Mahindra Scorpio bearing Registration No.

WB-34BE-0699, allegedly lost control due to unknown reasons and fell into a roadside pond (Nayanjuli) while the deceased, along with her father and other family members, was travelling from Panskura to Ghatal. As a result, the deceased sustained grievous injuries and was declared brought dead at Ghatal Sub-Divisional Hospital along with her father and the driver, Subrata Dey. Daspur P.S. Case No. 71/19 dated 14.03.2019 under Sections 279/337/338/304A/427 of the Indian Penal Code was initiated in connection with the said incident.

4. It has further been stated that the deceased was a Government employee serving as a nurse at Ghatal Sub-Divisional Hospital and was the sole earning member of her family. The applicant and her late husband were entirely dependent upon the deceased. Due to her untimely demise, the family has been facing severe economic hardship. It has also been claimed that the expected lifespan of the deceased was around 75 years..
5. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him. The respondents, National Insurance Company Limited. contested the aforesaid MAC case. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence awarded Rs. 54,04,768/- for an interest payable at 7%.
6. The Learned Advocate representing the appellant/insurance company submitted that the victim being a bachelor 50% instead of 1/4th should have been deducted towards his personal expenditure and the amount of compensation towards loss of consortium should have been granted. He

further submitted that the multiplier should have been granted 17 instead of 18 concerning his age to be 28 years at the time of his demise since the income tax return for the annual income of 12 months' salary was not granted the learned Tribunal erroneously considered of Rs. 27,442/- to be the income relying upon one month salary slip. He further submitted that the interest to the extent of 7% per annum as well as the penal interest in case of default to the extent of 10% per annum was extortionate.

7. The Learned Advocate representing the respondent No.1/claimant submitted that the Learned Tribunal was justified in computing the compensation which should not be interfered with.
8. Considered the submissions of the learned Advocates representing both the parties.
9. Since, the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company, this Court intends to rely on the last salary slip filed by the claimants for computing the monthly income of the victim which might have increased during the course of the concerned year.
10. Considering the observations of the Hon'ble Apex Court in *Pranay in National insurance company Ltd. Vs. Pranay Shetty & Anr*¹ and *Sarala*

¹ 2017(4)TAC 673(S.C)

Verma & Ors. Vs. Delhi Transport Corporation & Anr.² The impugned award of Rs. 11,89,000/- is modified as follows:

Monthly Income	Rs. 27,442/-
Annual Income	Rs. 3,29,304/-
Personal Expenses (50%)	Rs. 1,64,652/-
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Future prospect (50%)	Rs. 82,326/-

	Rs. 2,46,978/-
Multiplier to be "17"	X 17
	Rs. 41,98,626/-
General damages	Rs. 36,000/-
	Rs. 42,34,626/-

11. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 70,81,283/=(Rs. 25,000 + 70,56,283) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.

12. The Respondent Nos. 1 /claimant is entitled to receive the amount of Rs. 42,34,626/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

² (2009) 6 SC 121

13. 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 to the present respondent Nos. 1 /claimant as mentioned in the impugned judgment passed by the Motor Accident Claims Tribunal, Additional District Judge, Ghatal, Paschim Medinipur, being MAC Case No. 05 of 2019 on proof of proper identification of the respondent No.1 /claimant subject to payment of ad valorem Court fees and refund the balance amount through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.
14. The instant appeal is disposed of accordingly.
15. The pending applications, if any, stands disposed of.
16. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)