

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 951 of 2011

Krishna Majumder & Anr.

Versus

The National Insurance Co. Ltd & Anr.

For the appellants/claimants. : Mr. Biswarup Biswas
Mr. Pradip Kumar Ghosh

For the respondent nos. 1 : Mr. Arobindo Kundu

Heard & Judgment on : 29th January, 2025

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 22nd March, 2011 passed by the learned Judge, Motor Accident Claims Tribunal and District Judge Nadia at Krishnagar in M.A.C. Case No. 56 of 2009.
3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed on account of an accident which occurred on 23rd April, 2007 at about 7.30 hours, with the involvement of the offending vehicle being Maruti Omni Van bearing registration No. WNW-7061 which collided with the victim ridding of his bye-cycle along M.M. Ghosh Street from Krishnagar Collectory More to Krishnagar Govt. Collage More. The rash and negligent driving of the driver of the offending vehicle was responsible for the occurrence of the accident which severely injured the victim who was shifted to

Shaktinagar District Hospital, Nadia where he succumbed to the same within few hours of the admission.

4. The Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal did not consider the component of multiplier concerning the age of the victim to be 56 at the time of the accident whereby the multiplier of 9 should have been considered. However, the Learned Tribunal granted compensation of Rs. 6,70,000/- to compensate 45 months of service prior to the age of his retirement from service i.e. 60 years. The Learned Advocate representing the appellants/claimants further submitted that the Learned Tribunal did not grant any interest to be paid upon compensation amount from the date of filing of the claim application till the date of its actual realization.
5. The Learned Advocate representing the respondent No.1/insurance company conceded to the submission of the learned advocate representing the appellants/claimants.
6. Since the occurrence of the accident, insurance policy, the driving licence, route permit etc and other ancillary issues are not disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of rectifying the impugned judgment and order passed by the learned Tribunal which should have applied the multiplier method in terms of the observation in Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.
7. 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. 6,70,000/- is modified as follows:

Monthly Income	Rs. 21,240/-
Annual Income	Rs. 2,54,880/-
1/3 rd Deduction	Rs. 84,960/-
Personal Expenses	Rs. 1,69,920/-
Future Prospect to be added(15%)	Rs. 25,488/-

	Rs. 1,95,408/-
Multiplier to be "9"	X 9
	Rs. 17,58,672/-
General Damages	Rs. 84,000/-
Less Award	Rs. 18,42,672/-
Entitlement	Rs. 6,70,000/-
	Rs. 11,72,627/-

8. The Learned Advocate for the respondent No.1/insurance company submitted to have deposited a sum of Rs. 6,70,000/- against the compensation awarded through the impugned judgment and order before the Learned Tribunal which have been withdrawn by the learned advocate representing the appellants/claimants. The appellants/claimants are entitled to a sum of Rs. 11,72,627/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization.
9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 11,72,627/- 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 .
10. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disbursed the same to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal and District Judge Nadia at Krishnagar in M.A.C. Case No. 56 of

² (2009) 6 SC 121

2009 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court's fees.

11. The instant appeal is disposed of accordingly.
12. The pending applications if any stands disposed of.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

c.m. Ar. Ct.

(Ananya Bandyopadhyay, J.)