

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

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**FMA 634 of 2023**

**With**

**COT 54 of 2023**

**Cholamandalam Ms. General Insurance Company Ltd.**

**Vs.**

**Sangita Nayek & Ors**

For the Appellants : Mr. Soumalya Ganguly

For the Respondents : Mr. Jayanta Mondal  
Mr. Sayantan Rakshit

Heard & 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 respective parties are present.
3. The claimants, being the legal heirs of the deceased, filed an application under Section 166 of the M.V. Act in the Court of the Motor Accident Claims Tribunal-cum-Additional District Judge, 7th Court, at Paschim Medinipur, being MACC Case No. 405 of 2015, claiming compensation for the accidental death of Satya Nayek. On 16.12.2014 at about 3:40 p.m., while the deceased was standing at Ashari More Bus Stand under Debra P.S. by the side of NH-6,

intending to avail a bus, the offending vehicle, a Tata Venture bearing Registration No. WB-36A/2394, which was being driven at a high speed in a rash and negligent manner from Panskura side towards Debra, dashed him from behind with great force. As a result, the deceased sustained grievous and bleeding injuries all over his body and was immediately shifted to Midnapore Medical College and Hospital by local people, where he was declared dead by the attending doctors.

4. The owner of the offending vehicle appeared and files a written statement however he did not further contest the case and the case proceeded ex parte against him. Cholamandalam Ms. General Insurance Company Ltd. contested the aforesaid MAC case.
5. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence awarded Rs 14,18,600/- with interest of 6% payable that shall increase to 9% if the amount is not paid within two months
6. The Learned Advocate representing the appellant/insurance company submitted the delay in filing the complaint agitating non involvement of the offending vehicle in the accident. Moreover, the learned Tribunal considered the notional income of the deceased victim to be Rs. 6000/- per month which had been excessive.
7. The learned Advocate representing the respondents/claimants submitted to have filed a cross-objection being COT 54 of 2023

which, inter alia, submitted that the learned Tribunal was justified in granting the compensation which should not be interfered with.

8. Considered the rival contentions of the Learned Advocates representing the respective parties.
9. 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 respondent No.1/insurance company, this Court restricts itself only to consider the point agitated by both the parties. The documents marked as Ext. 1 being the complaint mentioned the reason for delay in filing the complaint which is well-accepted. The charge-sheet marked as Ext. 2 mentioned the details of identification along with registration number of the offending vehicle which probabalises the involvement of the offending vehicle in the accident. The Ext.5 being the income tax document stated the income to be "Nil" negated that the annual income of the victim to be within the taxable limits. Considering the fiscal index at the relevant point of time of the accident the monthly income of the victim can be considered to be Rs. 6000/- per month.
10. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr<sup>1</sup> and Sarala Verma

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<sup>1</sup> 2017(4)TAC 673(S.C)

& Ors. Vs. Delhi Transport Corporation & Anr.<sup>2</sup> The impugned award of Rs. 14,75,200/- is modified as follows:

|                                   |                 |
|-----------------------------------|-----------------|
| Annual Income(Rs. 6000 x 12)      | Rs. 72,000/-    |
| Future Prospect to be added( 40%) | Rs. 28,800/-    |
|                                   | <hr/>           |
| 1/4th Deduction Personal Expenses | Rs. 10,0800/-   |
|                                   | Rs. 25200/-     |
|                                   | <hr/>           |
| Multiplier to be “ 16”            | Rs. 75,600/-    |
|                                   | X 16            |
|                                   | <hr/>           |
| General Damages                   | Rs. 12,09,600/- |
| Entitlement                       | Rs. 84,000/-    |
|                                   | <hr/>           |
|                                   | Rs. 12,93,600/- |

11. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 14,60,342/=(Rs. 25,000 + 14,35,342) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
12. The Respondent Nos. 1 to 5/claimants are entitled to receive the amount of Rs. 12,93,600/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
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 to the respondent Nos. 1 to 5/claimants as mentioned by Motor Accident Claims Tribunal-cum-Additional District Judge, 7th Court, at Paschim Medinipur, being MACC Case No. 405 of 2015 on proof of proper identification of the respondent No.1 to 5/claimants subject to payment of ad valorem Court fees within four weeks and refund the balance amount if any through a cheque to the

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<sup>2</sup> (2009) 6 SC 121

Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

14. 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.
15. The instant appeal and cross objection are disposed of accordingly.
16. The interim order if any stand vacated.
17. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

**(Ananya Bandyopadhyay, J.)**