

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1494 of 2024

**Cholamandalam MS General Company Limited
Versus
Manas Chatterjee & Ors.**

For the Appellant : Mr. Soumalya Ganguli.

For the Respondent Nos. 1 to 2 : Mr. Ashique Mondal
Mr. Arup Kumar Bag.

Heard & Judgment on : 20th February, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondent Nos. 1 to 2/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 31.01.2023 passed by the Learned Judge, Motor Accident Claims Tribunal 3rd Court, Bankura in M.A.C. Case No. 179 of 2015.
3. An application under Section 166 of the Motor Vehicles Act had been filed due to the death of the victim in an accident which took

place on 1st November, 2015 with the involvement of the offending vehicle being a Bus bearing registration no. WB-67A/8505 which collided with a motor cycle bearing registration No.WB-68G/1037 which was driven by the victim near Belboni Chuagora High School. The offending vehicle approached at an exceeding speed, rashly and negligently and had been instrumental in causing the accident. The victim ultimately succumbed to his injuries on the way to P.G. Hospital.

4. The Learned Advocate representing the appellant/Insurance Company submitted that the Learned Tribunal had erroneously deducted the monthly income of the victim 1/5th towards personal expenses instead of 1/4th and sum of Rs. 1,76,000/- was granted on account of consortium which should have been Rs. 84,000/-. The learned Advocate representing the appellant/insurance company further submitted that the sum of Rs. 12,000/- per month to have been considered by the learned Tribunal in computing the compensation had been exorbitant in absence of oral as well as documentary evidence.
5. The learned Advocate representing the respondent Nos. 1 to 2/claimants acceded to his contentions.
6. 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 restricts itself only to the extent of rectifying the awarded compensation considering 1/4th of the annual income of the victim to be deducted since the number of claimants had been four at the time of the claim application. More-over, it is not improbable for a deed writer to earn a sum of Rs. 12,000/- per month in the year 2015.

7. Considering the observations of the Hon'ble Apex Court in *Pranay Shetty & Anr1* and *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*² The impugned award of Rs. 9,71,400/- is modified as follows:

Monthly Income	Rs. 12,000/-
Annual Income	X 12
	<u>Rs. 1,44,000/-</u>
Less 1/4 th Personal Expenses	Rs. 36000/-

	<u>Rs. 1,08,000/-</u>
Multiplier to be "7"	Rs. 1,08,000/-
	X 7
	<u>Rs. 7,56,000/-</u>
Non pecuniary damages	Rs. 84,000/-
	<u>Rs. 8,40,000/-</u>

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.14,29,528/- as per challan filed by the learned advocate representing the appellant/insurance company.

9. The Respondent Nos. 1 to 2/claimants are entitled to receive the amount of Rs. 8,40,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
10. 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 present respondent Nos. 1 to 2/claimants in equal proportion as mentioned in the impugned judgment Learned Judge, Motor Accident Claims Tribunal 3rd Court, Bankura in M.A.C. Case No. 179 of 2015 on proof of proper identification of the respondent No.1 to 2/claimants 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.
11. 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 already been 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

² (2009) 6 SC 121

disbursed in favour of the appellant/insurance company for the accounts of the insurance company.

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

(Ananya Bandyopadhyay, J.)