IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 197 of 2024

Manash Mondal

-Vs.-

The United India Insurance Company Limited & Ors.

For the Appellants : Mr. Amit Ranjan Ray,
Mr. Prodyot Kumar Ray

For the Respondents : Mr. P. K. Pahari

Heard & Judgment on : 07.05.2025

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. Both the Learned Advocates representing the appellant/claimant and the respondents/Insurance Company are present.
3. The instant appeal had been filed against the judgment and award dated 04.11.2016 passed by the Learned Judge, Motor Accident Claims Tribunal, 4th Court, Purba Bardhaman in M.A.C. Case No. 50/302 of 2014.
4. The claimant, Manash Mondal, filed an application under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, 4th

Court, Purba Bardhaman, being MAC Case No. 50/302 of 2014, claiming compensation of Rs. 6,00,000/- (Rupees Six Lakhs only) on account of injuries sustained by him in a road traffic accident that took place on 23.07.2014 at about 01:00 hours. At the relevant time, the claimant was walking along the 'kachcha portion' of Bhatar-Palsona-Kherur Road near Kherur Bus Stand, when a bus bearing Registration No. WB-41B-7733, being driven in a rashly and negligently dashed him.

5. As a result of the accident, the claimant sustained grievous injuries, including damage to one of his eyes, rendering him incapacitated to perform his usual professional duties. He underwent treatment in multiple hospitals and allegedly suffered mental trauma and agony. At the time of the accident, the petitioner was 27 years old and employed with Sebalaya Polyclinic and Diagnostic Centre, earning a monthly salary of Rs. 10,000/-. He claimed to have incurred substantial expenditure due to the injuries and loss of income, thereby prompting the present claim for compensation.

6. In connection with the said accident, Bhatar P.S. Case No. 238/14 dated 02.08.2014 was registered under Sections 279/338 of the Indian Penal Code

7. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him.

8. The insurance company contested the aforesaid MAC case.

9. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence awarded Rs. 2,85,400/- for an interest payable at 6%.

10. The Learned Advocate representing the Appellants/claimants submitted that the appellants received severe injuries on his person and medical board issued disablement certificate (Ext.-10) to the extent of 30% which should have been considered as 100%. The learned Tribunal should have considered the monthly income of the victim to be Rs.6,000/- along with an amount to be accorded towards non-pecuniary loss, future treatment, cost of attendant etc. The element of future prospect should have been computed at 50% of the gross monthly income. The learned Advocate representing the respondents/Insurance Company submitted that the learned Tribunal has awarded the compensation amount which should not be interfered with.

11. Considered the rival submissions of the learned Advocates representing both the parties.

12. Since the occurrence of the accident, involvement of the offending vehicle, driving licence, Insurance certificate etc. are not disputed by the learned advocate representing the respondents/insurance company, this Court restricts itself only to the extent of rectifying the compensation awarded in the following manner.

13. The learned Tribunal failed to consider that the victim lost sight of one of his eyes and only accorded loss of income of Rs.6,000/- without considering 30% disability as well as the future prospect to the extent of 40%. The income of the victim as claimed in the application under Section 166 of the Motor Vehicles Act to be Rs.6,000/- is acceptable in view of the evidence adduced by P.W. 4.

14. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr[1] and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.[2] the impugned award of Rs. 2,85,400/- is modified as follows:

Monthly Income	Rs. 6000/-
Yearly Income	Rs. 72,000/-
30% Disability	Rs. 21,600/-
(Loss of Vision)	
40% Future Prospect	Rs. 8,640/-
	Rs. 30,240/-
Multiplier "17"	X 17
	Rs. 5,14,080/-
Pain & Suffering	Rs. 3,00,000/-
Loss of Amenities	Rs. 50,000/-
Medical Treatment	Rs. 50,000/-
Future Medical Treatment	Rs. 50,000/-
Attendance Charges	Rs.30,000/-
Total	Rs. 9,94,080/-
Less : Award Received	Rs. 2,85,400/-
	Rs. 7,08,680/-

15. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 2,85,400/-. The

1 2017(4)TAC 673(S.C)

2 **(2009) 6 SC 121**

appellant/claimant is entitled to a further sum of Rs. 7,08,680/- along with 6% interest per annum to be paid from the date of filing of the application till the date of its actual realization.

16. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 7,08,680/- along with 6 % per cent interest per annum from the date of filing of the claim application till the date of its realization before the office of the learned Registrar General, High Court Calcutta within eight weeks from the date of passing of this order.

17. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same within four weeks to the appellant/claimant as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Purba Bardhaman in M.A.C. Case No. 50/302 of 2014 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court's fees.

18. The instant appeal is disposed of accordingly.

19. The pending applications, if any, stands disposed of.

20. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

Srimanta, A. R. (Ct.)