

Form No. J(2)
Item No. DL / 172
ARPAN – A.R.(CT)
C.m. A.R.(CT)

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction
(Appellate Side)

Present: The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No.1263 of 2016

With

COT 47 of 2017

Shriram General Insurance Company Limited

Vs.

Smt. Sonika Routh & Others

For the Appellant : Mr. Rajesh Singh, Adv.

For the Claimants/ Respondents : Mr. Saidur Rahaman, Adv.

Heard On : 24.04.2025, 14.05.2025 &
23.07.2025

Judgment On : 23.07.2025

Ananya Bandyopadhyay, J.:

1. Both the Learned Advocates representing the appellant/ Insurance Company and the respondents/ claimants are present in Court.
2. The instant appeal had been filed against the judgment and award dated 28th April, 2015 passed by the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District & Sessions Judge, Fast Track

Court – II in charge of Fast Track Court – I, Raiganj in Motor Accident Claim Case No.81 of 2013.

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 occurred on 30th March, 2013 at about 22:00 hours on NH-34 in front of Berhampore Police Line with the involvement of the offending vehicle being a mini truck bearing registration no. WB-59A/2882 which approaching at an exceeding speed rashly and negligently clashed with the victim who was a pedestrian. The victim suffered multiple injuries and succumbed to the same on the same date of accident.
4. The Learned Advocate representing the appellant/ Insurance Company submitted that the document marked as Exhibit – 1 being the initial complaint, did not mention the registration number of the offending vehicle. It was further emphasised that the registration number of offending vehicle was mentioned by the eye witness being P.W.2 at the time of adducing evidence before the learned Tribunal which indicated that the vehicle was falsely implicated for the purpose of extracting compensation from the insurance company. Learned advocate representing the appellant/ Insurance Company further submitted that the learned Tribunal had erroneously considered the multiplier to be “15” instead of “14” considering the age of the victim at the time of the accident.

5. Learned Advocate representing the respondents/ claimants had filed a cross objection being COT 47 of 2017, *inter alia*, stated that the component of future prospect was not granted by the learned Tribunal. The amount of compensation granted towards general damages had been inadequate. A default interest to the extent of 4 per cent was granted instead of the interest to be deposited from the date of filing of the application.
6. Considered the submissions of the learned Advocates representing both the parties.
7. 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 appellant/insurance company, this Court restricts itself only to the extent of issues agitated by the Learned Advocates representing the respective parties.
8. The document marked as Exhibit – 2 being the charge-sheet mentioned the registration number of offending vehicle as well as the same being driven by the driver whose name appear at column no.11 of the charge-sheet which corroborated with the evidence of the eye witness being P.W.2. Under such circumstances the claim of the appellant/ Insurance Company that the offending vehicle had been framed to obtain the compensation amount cannot be sustained. The claim application was disposed of in the year 2015 prior to the

pronouncement of the judgment of the Hon'ble Supreme Court in ***National insurance company Ltd. vs. Pranay Shetty & Anr¹***. The learned Tribunal did not have the scope to consider the element of future prospect, general damages etc. in compliance with the aforesaid decision of the Hon'ble Supreme Court.

9. Considering the observations of the Hon'ble Apex Court in ***National Insurance Company Ltd. (Supra)*** and ***Sarala Verma (supra)***, the impugned award is modified as follows:

Monthly Income	Rs. 18,446/-
Add 30% Future Prospect	+ Rs. 5,534/-
	Rs. 23,980/-
Less 1/3 rd for Personal Expenses	- Rs. 7,993/-
	Rs. 15,987/-
Annual Income	<u>x 12</u>
	Rs. 1,91,844/-
Multipliers	<u>x 14</u>
	Rs. 26,85,816/-
Add General Damages	+ Rs. 84,000/-
	Rs. 27,69,816/-

10. The learned advocate representing the appellant/insurance company submits that the statutory amount of Rs. 25,000/- deposited at the office of the learned Registrar General, High Court at Calcutta

¹ 2017(4) TAC 673 (S.C)

along with interest accrued may be returned to the insurance company.

11. The office of the learned Registrar General High Court at Calcutta, shall return the statutory amount as aforesaid along with interest so accrued to the Learned Advocate for the Appellant/Insurance Company through a cheque for the accounts of the insurance company for records.
12. Thereafter, the learned Advocate representing the appellant/insurance company deposit the entire compensation amount i.e. Rs. 27,69,816/- along with interest at the rate of 6% per annum from the date of filing claim application till the date of its realisation before the office of the Learned Registrar General, High Court at Calcutta within two months.
13. The Respondent Nos. 1 and 2/claimants are entitled to receive the amount of Rs. 27,69,816/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization The office of the learned Registrar General, High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited along with accrued interest directly to the bank accounts of the present respondent nos. 1 and 2/claimants in equal proportion as mentioned in the impugned judgment award dated 28th April, 2015 passed by the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District & Sessions Judge, Fast Track Court –

II in charge of Fast Track Court – I, Raiganj in Motor Accident Claim Case No.81 of 2013 on proof of proper identification of the respondent nos.1 and 2/claimants subject to payment of *ad valorem* court fees. The office of the learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

14. The instant appeal and cross objection are disposed of accordingly.
15. The pending applications, if any, stands disposed of.
16. The TCR be sent down to the concerned tribunal forthwith.
17. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)