Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 718 of 2023

National Insurance Company Limited
Versus
Sonia Wadhwa (Arora) @ Sonia Wadhwa & Ors.

With

COT/94/2024

Sonia Wadhwa (Arora) @ Sonia Wadhwa & Ors.
Versus
National Insurance Company Limited

For the appellant/Insurance Company	:	Ms. Sucharita Paul
For the respondents/claimants	:	Mr. Ashique Mondal, Mr. Shahmeraz Alam
Heard & Judgment on	:	10th July, 2025

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 02.05.2023 passed by the Learned Additional District

& Sessions Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Sadar, Paschim Medinipur in M.A.C. Case No. 475 of 2015.

3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed by the claimants on account of the death of the victim in an accident which occurred on 16.07.2014 at about 4.00 p.m. at Rashmi Metaliks Limited Unit – II compound under Kharagpur (L) Police Station with the involvement of the offending vehicle being dumper/tipper bearing registration No. WB-33C/2006 which clashed with the victim while he was performing his official duty within the campus of the Rashmi Metalicks Limited resulting in severe injuries and succumbed to the same at Medinipur Medical College and Hospital.

4. The Learned Advocate representing the appellants/Insurance Company submitted that the Learned Tribunal failed to deduct 10% exceeding a sum of Rs.2,50,000/- in accordance to the Gazette Notification issued by the Ministry of Law and Justice dated 14.05.2015 with regard to the finance notification issued for the year 2015 for computation of the income-tax for the relevant financial year of 2015-2016. The oral income of the victim of was Rs.4,20,000/-. Therefore, the Tribunal should have deducted 10% of Rs.1,70,000/- in excess of Rs.2,50,000/- in compliance with the aforesaid Gazette Notification. Moreover, the

Tribunal had erroneously granted a sum of Rs.44,000/- towards parental consortium.

5. The Learned Advocate representing the respondents/claimants submitted to have filed a cross-objection wherein it was claimed that the interest was granted from the date of 29.09.2022 instead of the date of filing of the application, as aforesaid, on 29.09.2015.

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 appellant/insurance company, this Court restricts itself only to the extent of determine the above-mentioned issues.

7. Considered the rival contentions of the respective parties. The document marked as Exhibit-13 denoted the monthly income of the victim through a pay slip which mentioned the amount drawn by the victim to be Rs.35,000/- which cumulatively had been Rs.4,20,000/- as mentioned in the letter of appointment marked Exhibit – 12. The Gazette publication issued by the Ministry of Law and Justice in the first schedule (Section 2 Part I) referred to an amendment with regard to income-tax which is replicated as follows:-

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of Section 2 of the Income-tax Act, not being a case to which any other paragraph of this part applies,-

(i) Where the total income does not exceed Rs.2,50,000/-	Nill
(ii) Where the total income exceeds Rs.2,50,000/- but does not exceed Rs.5,00,000/-	10 per cent of the amount by which the total income exceeds Rs.2,50,000/-

Under such circumstances, a sum of Rs.17,000/- should be deducted from Rs.4,20,000/- in computing the total income of the victim.

8. 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. **72,30,400**/- is modified as follows:

Annual Income Less : Income-tax	Rs. 4,20,000/- Rs. 17,000/- Rs. 4,03,000/-

1 2017(4)TAC 673(S.C)
[2] **(2009) 6 SC 121**

Less : Professional tax	Rs. 1,800/-
	Rs. 4,01,200/-
Add : 50% Future Prospect	Rs. 2,00,600/-
	Rs. 6,01,800/-
1/3rd Deduction Personal Expenses	Rs. 2,00,600/-
	Rs. 4,01,200/-
Multiplier to be "17"	X 17
	Rs. 68,20,400/-
Add : General Damages General Damages	Rs. 84,000/-
Total	Rs. 69,04,400/-

9. The Learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.76,35,524/- as per challan filed by the Learned Advocate representing the appellant/insurance company.

10. The Respondents/claimants are entitled to receive the amount of Rs. 69,04,400/- at the rate of 6% per cent per annum from the date of filing of the claim application, i.e. 29.09.2015 till the date of actual realization.

11. The Office of the Learned Registrar General, High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the Bank accounts of the respondents/claimants as mentioned in the impugned judgment of the Learned Additional District &

Sessions Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Sadar, Paschim Medinipur in M.A.C. Case No. 475 of 2015 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount, if any, along with accrued interest through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company. 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.

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.)

Srimanta, A.R.(Ct)