

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 132 of 2024

Shahin Vivi & Ors

-Vs-

United India Insurance Co. Ltd. Anr.

For the Appellants/ : Mr. Nilanjan Maity

For the Respondents/ : Mr. Parimal Kumar 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. The Learned Advocates representing the respective parties are present.

3. Seven claimants filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, 6th Court, Alipore being MAC Case No. 109 of 2019 claiming an award of Rs. 36,50,000/- due to the death of the victim in a road traffic accident on 16th/12/2017 at about 4 am. The offending vehicle being a tanker bearing Registration No. WB-23C-0894 hit the victim in a rash and negligent manner while he was repairing the back of a stationary vehicle. He was declared dead at Midnapore Medical College and Hospital. On the basis of a written complain, Debra PS Case No. 570 was instituted on 16.12.2017 against the offending vehicle.

4. Though owner of the offending vehicle, Inter State Oil Carrier Limited did not contest and the case proceeded ex-parte against him.
5. The respondent, United India Insurance Co. Ltd. contested the aforesaid MAC case.
6. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidences directed the insurance company to pay Rs. 13,80,000/- with an interest payable at 7% per annum.
7. The Learned Advocate representing the Appellants/claimants submitted that the learned Tribunal did not consider the monthly income of the victim to be Rs. 22,000/- contrary the learned Tribunal had considered the monthly income to be Rs. 6000/- per month.
8. The Learned Advocate representing the respondent No.1/insurance company submitted that the learned Tribunal erroneously computed the future prospect at the rate of 40% instead of 25%. The multiplier should have been 13 instead of 15. The sum of Rs. 100000/- should have been granted towards love and affection.
9. Considered the rival contentions of the respective parties.
10. 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 the points agitated by the Learned Advocates representing the appellants/claimants as well as respondent No.1 /insurance company. Considering the age of

the victim, future prospect should have been considered to be 25% of the total income and the multiplier should have been 13. The accident occurred in the year 2017 and it would not be improbable for a driver to earn of Rs. 10,000/- per month in the year 2017.

11. 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. 13,80,000/- is modified as follows:

Monthly Income	Rs. 10000/-
Future Prospect to be added(25%)	Rs. 2500/-
Annual income (Rs. 12,500 x 12)	Rs. 1,50,000/-
Deduction 1/5 th	Rs. 1,20,000/-
	X 13
Multiplier to be "13"	Rs. 15,60,000/-
Loss of Estate	Rs. 15,000/-
General Expenses	Rs. 15,000/-
Loss of Consortium	Rs. 40,000/-
	Rs. 16,30,000/-
Less	Rs. 13,80,000/-
Entitlement	Rs. 2,50,000/-

12. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 13,80,000/- The appellants/claimants are entitled to a sum of Rs. 2,50,000/- along with

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

interest at the rate of 6%per annum to be paid from the date of filing of the claim application till the date of realization.

13. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 2,50,000/- along with interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within six weeks from the date of passing of this order.
14. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same to the present appellants/claimants as mentioned in the impugned judgment and order passed by the Learned Motor Accident Claims Tribunal, 6th Court, Alipore being MAC Case No. 109 of 2019 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees within four weeks.
15. The instant appeal is disposed of accordingly.
16. The pending applications, if any, stands disposed of.
17. The TCR be sent down to the concerned Tribunal forthwith.
18. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)