

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 923 of 2018

Purnima Roy & Ors.

Versus

The Oriental Insurance Company Limited & Anr.

For the Appellants/claimants : Mr. Saidur Rahaman

For the Respondent No.1 : Ms. Sayanti Santra

Heard on : 30.01.2025

Judgment on : 6th February, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellants/claimants and the respondent No.1/Insurance Company are present.
2. The instant appeal had been filed against the judgment and award dated 31.05.2018 passed by the learned Judge, Motor Accident Claims Tribunal, 1st Court, Jalpaiguri in M.A.C. Case No. 120 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 occurred on 10.02.2015 at about 11 p.m. with the involvement of the offending vehicle being Truck bearing registration no. HR-55P/6850 which was driven by the victim which collided with the offending truck bearing registration No. WB-73/8761. As a result of the accident the victim succumbed to his injuries at the Anandalok Nursing Home on 12.02.2015.

4. The Learned Advocate representing the appellants/claimants submitted the sum of Rs. 9500/- was erroneously granted towards general damages and $\frac{1}{3}^{\text{rd}}$ was deducted towards personal expenses out of the annual income of the victim. The monthly income was considered to be Rs. 3000/- per month as notional income which should have been considered to be Rs. 5000/- per month.
5. The Learned Advocate representing the respondent No.1/Insurance Company submitted that the rate of interest was granted by the learned Tribunal to the extent of 7.5% per annum instead of 6% per annum. She, however, did not contradict the submission with regard to the deduction of personal expenses and the general damages. However, refuted the claim of the learned Advocate representing the appellants/claimants contrary to Rs. 3000/- per month assessed by the monthly income to be justified in respect of Rs. 5000/- per month as claimed in appeal by the Learned Advocate representing the appellants/claimants.
6. Since, the occurrence of the accident, involvement of the offending vehicle, the driving license, insurance certificate and route permit etc. are not disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of modifying the impugned judgment and order by rectifying the amount to be computed in terms of the deduction of personal expenses and general damages and rate of interest. Considering the fiscal index prevalent at the relevant time the monthly income of the victim to be Rs. 5000/- per month cannot be improbable.

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. 3,65,368/- is modified as follows:

Monthly Income	Rs. 5000/-
Annual Income	Rs. 60,000/-
Future Prospect to be added(10%)	Rs. 6000/-
	Rs. 66,000/-
1/4 th Deduction	Rs. 16,500/-
Personal Expenses	Rs. 49,500/-
	X 13
Multiplier to be "13"	Rs. 6,43,500/-
General Damages	Rs. 70,000/-
	Rs. 7,13,500/-
Less Award	
Entitlement	Rs. 3,65,368/-
	Rs. 3,48,132/-

7. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 3,65,368/-. The appellants/claimants are entitled to a sum of Rs. 3,48,132/- along interest at the rate of 6% per annum to be paid from the date of filing of the application till the date of its actual realization.
8. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 3,48,132/- along with interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order .
9. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, 1st Court, Jalpaiguri in M.A.C. Case No. 120 of 2015 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees.

10. The instant appeal is disposed of accordingly.
11. The pending applications if any stands disposed of.
12. 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./C.M. A.R.