

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA No.91 of 2024
Sati Murmu & Ors.

vs.

The United India Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

... for the appellants/claimants

Mr. Guddu Singh

... for the respondent No.1/insurance company.

Heard on: 3rd January, 2025.

Judgment on: 3rd January, 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the appellants/claimants as well as respondent No.1/insurance company are present.
2. The instant appeal has been preferred by the appellants/claimants against the judgment and award dated 30th June, 2016 passed by the Learned Judge, Motor Accident Claims Tribunal, cum Re-Designated Court, Paschim Medinipur in M.A.C. Case No. 11 of 2020.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the accident which occurred on 10.07.2019 at about 7.30 p.m. on N.H. 60 road. The victim riding his motor cycle was hit by the offending vehicle being (Mini truck) bearing registration No. WB-33B/8626 which approached from Debra towards

Belda at a high speed. The victim was initially admitted at Kharagpur S.D. Hospital on 10.07.2019 at 8.50 p.m. and was subsequently declared “*brought dead*” by the attending doctor thereat.

4. The Learned Advocate representing the appellants/claimants submitted the Learned Tribunal did not grant the amount towards future prospect in compliance with the observation in National insurance company Ltd. Vs. Pranay Shetty & Anr.¹ to the extent of 40%. More-over, an additional amount to the extent of 10% of the general damages was also not granted. The income of the victim as “Mason” as claimed by the appellants/claimants to be Rs. 8000/- per month had not been considered and a reduced amount of Rs. 6000/- per month was granted disregarding the fiscal index prevailing at the time of the accident in the year 2020.
5. The Learned Advocate representing the respondent No.1/insurance company refuted the contention of the Learned Advocate representing the appellants/claimants emphasizing that the claim of the victim to be a “Mason” was not substantiated either through oral or documentary evidence. Therefore, the monthly income to the extent of Rs. 6000/- considered by the Learned Tribunal was justified.
6. The avocation of a “Mason” in a rural ambience cannot be evinced through documentary evidence. A “Masson” to earn Rs. 8000/- per month in the year 2020 is not improbable.

In view of the observations of the Hon’ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr² and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.³, the impugned award of Rs. 9,80,000/- is modified as follows:

Monthly Income	Rs. 8,000/-
Annual Income	Rs. 96,000/-
1/4 th Deduction	Rs. 24,000/-
Personal Expenses	Rs. 72,000/-
Future Prospect to be added(40%)	Rs. 28,800/-

	Rs. 100800/-
Multiplier to be “15”	X 15

	Rs. 15,12,000/-
General Damages	Rs. 77,000/-

Less Award	Rs. 15,89,000/-
	Rs. 9,80,000/-

Entitlement	Rs. 6,09,000/-

7. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 9,80,000/-. The appellants/claimants are entitled to receive a sum of Rs. 6,09,000/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of its actual realization.
8. The Learned Advocate representing the respondent No.1/insurance company is to deposit the balance sum of Rs. 6,09,000/- along with at

1 2017(4)TAC 673(S.C)
³ (2009) 6 SC 121

the rate of 6% interest per annum from the date of filing of the claim application before the office of the Learned Registrar General, High Court Calcutta within four 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 disbursed the same to the present appellants/claimants in equal proportion as mentioned in the award passed by the Learned Judge, Motor Accident Claims Tribunal, cum Re-Designated Court, Paschim Medinipur in M.A.C. Case No. 11 of 2020 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 TCR be sent down to the concerned Tribunal forthwith.
12. Copy of the order be sent to the Department as well as concerned Tribunal for information.

c.m.

(Ananya Bandyopadhyay, J.)