

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 1223 of 2022

Mujlefa Bibi & Anr.

-Vs-

The Oriental Insurance Company Ltd. & Ors.

With

COT 131 of 2024

The Oriental Insurance Company Ltd.

-Vs-

Mujlefa Bibi & Anr.

For the Appellants/Claimants : Mr. Amit Ranjan Roy

For the Respondent no.1/
Insurance company : Mr. Sanjay Paul
Ms. Jaita Ghosh

Heard and 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 both the parties are present.
3. Two Appellants/Claimants filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, Additional, District and Sessions Judge, Fast Track Court-II, Tamluk, Purba Mednipur being MAC Case No.155/2014, claiming an award of Rs. 6,00,000/- as well as penalty with interest due to a road traffic accident on 12.04.2012 at about 3:00 hrs. The offending vehicle, bearing

Registration No. WB-29A/3721 was driving in a rash and negligent manner, which caused it to crash with another vehicle. The aforesaid victim was a helper in the offending vehicle and was grievously injured. He passed away on his way to Burdwan Hospital. Subsequently, based on a complaint Galsi P.S. Case No. 14/2012 dated 13.04.2012 was instituted against the driver of the offending vehicle as aforesaid.

4. The owner of the offending vehicle did not contest the case and the case proceeded *ex parte* against him.
5. The respondents, The Oriental 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 evidence and awarded a sum of Rs. 13,24,000/- as well as an interest of 6% payable from the date of evidence of the case till realization of the entire amount.
7. The Learned Advocate representing the Appellants/Claimants submitted that the learned Tribunal erred in granting interest at the rate of 6% per annum on the compensation awarded from the date of evidence i.e. 25/02/2019 till the date of realization of the entire amount.
8. The Learned Advocate representing the Respondent No.1/Insurance Company submitted to have filed a Cross Objection being COT 131 of 2024 stating that the learned Tribunal committed an error in granting Rs.40,000/- towards parental consortium and Rs.80,000/- towards filial consortium. Moreover, the personal deduction should have been to the extent of $1/3^{\text{rd}}$ income of the deceased instead of $1/4^{\text{th}}$, as the father of

the victim had been one of the appellants/claimants without any proof that the same was dependent upon the income of the deceased.

9. Heard the submissions of the learned advocates representing the respective parties and considered the materials on record.
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 extent as agitated by the Learned Advocates representing the both the parties. The affidavit-in-chief filed by the father of the victim stated that the parents of the victim were fully dependent upon the income of their deceased son. The learned Tribunal had erroneously computed a sum of Rs.60,000/- against loss of consortium to the wife, children and mother of the victim, which should have been Rs.40,000/- only. Moreover, the interest at the rate of 6% should have been directed to be paid from the date of filing of the MAC Case No.155 of 2014 till the date of its actual realization.
11. The compensation awarded by the Learned Tribunal is modified to the following extent: -
12. The appellants/claimants are entitled to a sum of Rs. 12,04,000/- (Rs.13,24,000/- - Rs.1,20,000/-) along with 6% interest per annum to be paid from the date of filing of the application under Section 166 of the Motor Vehicles Act till the date of its realization.
13. The learned advocate for the respondent No.1/Insurance Company is to deposit the sum of Rs.12,04,000/- along with interest as aforesaid

before the office of the learned Registrar General, High Court Calcutta within four 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 award passed by the Court of Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court-II. Tamluk, Purba Medinipur in MAC Case No.155/2014 on proof of proper identification of the Appellants/Claimants subject to payment of ad valorem Court's fees.
15. The instant appeal along with application are disposed of accordingly.
16. The Trial Court Records shall be sent down to the concerned tribunal forthwith.
17. Copy of the order be sent to the Department as well as concerned tribunal for information.
18. Parties to act upon the server copy of this judgment

(Ananya Bandyopadhyay, J.)

S.R. (A.R.C.)