

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**IA No.:CAN/1/2022
in
FMA 1295 of 2022**

**IFFCO Tokio General Insurance Company Limited
Versus
Manju Rani Das & Ors.**

For the Appellant	:	Mr. Rajesh Singh.
For the Respondents	:	Mr. Jayanta Kumar Mondal, Ms. Rita Bhattacharya, Mr. Sayantan Rakshit.
Heard & Judgment on	:	21 st January, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the appellant/insurance company as well as respondents/claimants are present.
2. Being aggrieved by and dissatisfied with the award dated 8th October, 2021 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 7th Court, Paschim Medinipur in MAC Case No. 453 of 2017 under Section 166 of the Motor Vehicles Act the instant appeal had been filed.
3. An application under Section 166 of the Motor Vehicles Act was filed by the claimants being the parents of the victim who had died incurring an accident on 9.7.2015 at about 3.30 P.M. being a passenger of the offending vehicle bearing registration no. WB 08A/3755 (Scorpio) which advanced in an excessive speed rashly and negligently thereby losing its control when a cow appeared in front of it, eventually capsized by the road side whereby the victim

was seriously injured and succumbed to his injuries at Kharagpur Sub-Divisional Hospital.

4. The learned Advocate representing the appellants/Insurance Company submitted that the learned Tribunal had erroneously granted 1/3rd deduction towards personal expenses instead of 50% which should have been deducted in case of the victim who died as a bachelor. Secondly, the multiplier of "16" was considered in place of "15" since the victim died at the age of 37 years. Moreover, the parents being the claimants in the claim application under Section 166 of the Motor Vehicles Act, a further sum of Rs.88,000/- was granted towards parental consortium which should not have been awarded and enhanced rate of interest of 9% along with a penal interest of 12% was granted to the detriment of the appellant/Insurance Company which should have been considered to be at the rate of 6% per annum, without a provision for default interest.
5. The learned Advocate representing the respondents/claimants acceded to the contentions of the learned Advocate representing the appellant/Insurance Company.
6. The occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate, route permit etc. are not disputed by the learned advocate representing the appellant/insurance company. This Court restricts itself only to the erroneous calculations pointed out by the learned Advocate representing the appellant/ Insurance Company in the impugned judgment and order which indubitably requires to be rectified.

Considering the observations of the Hon'ble Apex Court Pranay in *National insurance company Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.²*

7. The impugned award of Rs. 11,08,200/- is modified as follows:

Monthly Income	Rs. 6000/-
Annual Income	X 12
	Rs. 72,000/-
Future Prospect to be added(40%)	Rs. 28,800/-

Less ½ Personal Expenses	Rs.100800.00/-
	Rs. 50,400 /-
Multiplier to be "15"	
Convention Head	Rs. 50,400.00/-
Loss of Estate 15,000	X 15
Funeral Exp 15,000	
	Rs. 7,56,000/-
Rs. 30,000/-	
Add: 10% Rs. 3000/-	Rs. 33,000/-
	Rs. 7,89,000/-
Entitlement	Rs. 7,89,000/-

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.15,85,990/- under OD challan No. 2182 dated 30.09.2022 and Rs. 25,000/- as statutory deposit through another cheque under challan No. 1515 dated 23.12.2021.
9. The Respondents/claimants are entitled to receive the amount of Rs. 7,89,000/- at the rate of 6% per cent per annum from the date of filing of the claim application i.e. 16.09.2017 till the date of actual realization.
10. The office of the learned Registrar General, High Court, Calcutta shall encash the cheque stipulating the entire calculated amount as aforesaid and thereafter disburse the same to the present respondents/claimants in equal proportion as mentioned in the impugned judgment dated 8th October, 2021 passed by the learned

1 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Judge, Motor Accident Claims Tribunal cum Additional District Judge, 7th Court, Paschim Medinipur in M.A.C. Case No. 453 of 2017 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount if any through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

11. The interest accrued on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which was further deposited in the Nationalized Bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the balance sum of interest to be refunded to the Insurance Company through distinct account payee cheques.
12. The instant appeal is disposed of accordingly.
13. The interim order if any stand vacated.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)