

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT(MV) 528 of 2023

**Debashree Mukherjee & Ors.
Versus**

Shriram General Insurance Company Ltd. & Anr.

For the Appellants : Mr. Amit Ranjan Roy

For the Respondent No.1/
Insurance co. : Mr. Rajesh Singh

Heard on : 22.04.2025, 13.05.2025 &
11.06.2025

Judgment on : 29th July, 2025.

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment and award dated 5th January, 2023 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 2nd Court, Asansol, Paschim Bardhaman in M.A.C. Case No. 18/2017/01 of 2017.

3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 15.10.2016 at about 12.30 to 13.00 hours with the involvement of the offending vehicle being a truck bearing registration No. JH-05BE/6692 dashed motor cycle of the victim being driven by him bearing registration No. WB-38J/2837 from behind overturning him on the road and was subsequently admitted at the Misson Hospital, Durgapur due to the injuries suffered by him to which he succumbed on 16.10.2016.
4. Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal had erroneously granted the compensation towards future prospect to the extent of 15% instead of 30% with regard to the age of the victim to be 44 years on the date of the accident. The Learned Tribunal had considered the net income of the victim to be Rs. 4,12,555/- as per the document marked as Ext. 14 i.e. the salary slip disregarding the deposition of P.W.3 the Senior Officer (Personal) of Neamatpur Central Workshop as well as the income tax return for the assessment year 2016-17 marked as Ext. 15, 16 and 17.
5. The Learned Advocate representing the respondent No.1/Insurance Company submitted that the Learned Tribunal

taking into account each and every aspect had rightly assessed the compensation award which shall not be interfered with.

6. Considered the rival contentions of the respective parties.
7. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the respondent No.1/insurance company, this Court restricts itself only to the extent of issues agitated by the respective parties.
8. The age of the victim on the relevant date of the accident was 44 years accordingly the component of future prospect should have been considered to be 30% instead of 15%. The documents marked as Exhibits 15, 16 and 17 revealed the same to have been filed prior to the death of the victim pertaining to the assessment year 2016-17 which had been verified by the Income Tax Department where the gross earning of the victim for the period 2014-15 till 31.03.2016 had been Rs. 5,51,730/- wherefrom a sum of Rs. 15,890 was to be deducted towards income tax paid by the victim. The balance amount of Rs. 5,30,840/- should comprise the yearly income of the victim.

9. 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. 44,98,096/- is modified as follows:

Gross total Income	Rs. 5,51,730/-
Less Tax	Rs. 15,890/-
1/3 rd Personal Expenses	Rs. 5,35,840/-
Future Prospect to be added(30%)	Rs. 1,78,613/-
	Rs. 3,57,227/-
	Rs. 1,07,168/-
	Rs. 4,64,395
Multiplier to be "14"	X 14
	Rs. 65,01,530/-
General Damages	Rs. 77,000/-
Less	Rs. 65,78,530/-
	Rs. 44,98,096/-
Entitlement	Rs. 20,80,434/-

10. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 44,98,096/- The appellants/claimants are entitled to a sum of Rs. 20,80,434/- along with 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. In view of the observation of the Hon'ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.³ the appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the

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

² (2009) 6 SC 121

³ 2025 INSC 361

learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

11. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 20,80,434/- along with interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within 10 weeks from the date of passing of this order.
12. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same directly to the bank accounts of the present appellants/claimants as mentioned in the impugned judgment and order passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 2nd Court, Asansol, Paschim Bardhaman in M.A.C. Case No. 18/2017/01 of 2017 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees within four weeks.
13. The instant appeal is disposed of accordingly.
14. The pending applications, if any, stands disposed of.
15. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

