

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMAT (MV) 436 of 2022

Debu Sharma @ Chattu Sharma
v.
United India Insurance Co. Ltd. & Anr.

Mr. Ashique Mondal
Mr. Shahmeraz Alam ... for the appellant/claimant.

Mr. Sanjay Paul
Ms. Jaita Ghosh ... for the respondent no.1/insurance company.

Heard on: February 20, 2025.

Judgment on: March 06, 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been preferred against the impugned judgment and award dated 22nd September, 2021 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 7th Fast Track Court, Alipore, South 24 Parganas in MAC Case No.03 of 2016.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the victim/claimant, who suffered an accident on 16th

October, 2015 at about 4.50 p.m. on Sarsuna Main Road in front of Premises No.8A whereby the offending vehicle being a Bus bearing registration no. WB-19G/8851 collided with the motorcycle bearing registration no.WB-20M/4102 being driven by the victim. The victim suffered physical disablement to the extent of 36% as assessed by the private Doctor.

4. The Learned Advocate representing the victim/claimant submitted that the Learned Tribunal had considered the monthly income of the victim to be Rs.4,000/- contrary to the claim of the victim to be Rs.6,000/- working as 'vegetable seller'. Moreover, the compensation paid towards pain and suffering had been modicum to the extent of Rs.5,000/- and compensation towards component of future prospect was not granted.
5. The Learned Advocate representing the respondent no.1/insurance company submitted that the Learned Tribunal in absence of any oral and documentary evidence with regard to the monthly income of the victim had correctly assessed the sum to be Rs.4,000/- per month.
6. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have been 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 allowing the victim/claimant to a sum of Rs.50,000/- pain and

suffering and future prospect to the extent of 40% of the annual income. The monthly income of the victim/claimant in the year 2015 pursuing the business of a vegetable seller can be Rs.5,000/- per month and the same is not improbable. This Court is not inclined to interfere with the percentage of physical disablement assessed by the learned Tribunal.

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. 1,97,000/- is modified as follows:

Monthly Income	Rs. 5,000/-
Annual Income (Rs. 5000 x 12)	Rs. 60,000/-
Future Prospect to be added(40%)	Rs. 24,600/-
	Rs. 84,000/-
Multiplier to be "16"	X 16
	Rs. 13,44,000/-
Disability (25%)	Rs. 3,36,000/-
	Rs. 50,000/-
Non pecuniary Damages	Rs. 3,86,000/-
Less Award	Rs. 1,97,000/-
Entitlement	
	Rs. 1,89,000/-

7. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 1,97,000/-. The appellant/claimant is entitled to a sum of Rs. 1,89,000/- along with interest at the rate of 6% per annum to be paid from the date of filing of the application i.e. 06.01.2016 till the date of its actual realization.

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

² (2009) 6 SC 121

8. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 1,89,000/- 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 appellant/claimant as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 7th Fast Track Court, Alipore, South 24 Parganas in MAC Case No.03 of 2016 on proof of proper identification of the appellant/claimant 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 learned Tribunal for information.

(Ananya Bandyopadhyay, J.)

S.R.