Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 326 of 2025

Pinku mistri & Ors.
Versus
The United India Insurance Company Limited & Anr.

For the appellants/claimants. : Mr. Amit Ranjan Roy

For the respondent nos. 1 : Mrs. Sucharita Paul

Heard & Judgment on : 20th March, 2025

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 01.04.2024 passed by the learned Additional District Judge, Motor Accident Claims Tribunal 4th Court, Birbhum at Suri in M.A.C. Case No. 166 of 2017.
3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed by the appellants/claimants on account of accident which occurred on 13.05.2017 at about 11.30 P.M. on Panagarh-Moregram Highway on NH-60 near Nakpur Check post within the jurisdiction of P. S. – Nalhati, District – Birbhum, West Bengal with the involvement of the offending vehicle being a 'Truck' bearing registration No. WB-67A/7899 which approached at an exceeding speed, rashly and negligently, as a consequence of the same the driver of the offending vehicle lost its control and hit a 'Maruti Car' bearing registration no. WB-02V/1178 being driven by the driver

and the victim being a passenger of the same. The driver of the 'Maruti Car' as well as the passenger/victim received severe injuries and on being shifted to Rampurhat Hospital the victim, Susen Mistri was declared 'brought dead'.

4. The Learned Advocate representing the appellants/claimants submitted that the victim was a businessman and the learned Tribunal disregarding the documents of Income-tax returns filed by the victim marked as Exhibits – 10, 11 along with the documents marked as Exhibit 12 which was filed after the death of the victim was not considered and the learned Tribunal erroneously had computed the monthly income of the victim based on annual net income of approximately Rs.2,50,000/-. He did not agitate the other components to be considered while computing the compensation amount.

5. The learned Advocate representing the respondents/Insurance Company opposed the submission of the learned Advocate representing the appellants/claimants and submitted that the learned Tribunal considered the net income of the victim to be Rs.2,50,000/- and the assessment of the compensation was justified. The documents marked as Exhibits -10, 11 and 12 exhibited a synergy and are beyond doubt to be raised in the context of the documents marked as Exhibit 12 being the Income-tax return after the death of the victim to have been manipulated. The evidence of P.W. 2 is replicated as follows:-

"*I have brought certified to be true copy of income tax returns of Susen Mistri having PAN No. AQRPM9634R for the assessment year 2015-2016, 2016-2017 & 2017-2018. It is certified by Mr. Peter*

Lugun. This is the income tax returns of Susen Mistri Having PAN No. AQRPM9634R for the assessment year 2015-2016, 2016-2017 & 2017-2018. The income tax returns of Susen Mistri having PAN No.AQRPM9634R for the assessment year 2015-2016 containing 03 sheet is marked as Exbt. 10. The income tax returns of Susen Mistri having PAN No. AQRPM9634R for the assessment year 2016-2017 containing 04 sheet is marked as Exbt. 11. The income tax returns of Susen Mistri having PAN No. AQRPM9634R for the assessment year 2017-2018 containing 22 sheet is marked as Exbt. 12.

For the assessment year 2017-2018 the gross income of the assessee Susen Mistri was Rs.3,23,543/-.

The income for the assessment year 2015-2016, 2016-2017 & 2017-2018 as shown is nothing but self-declaration. I do not know whether the declaration of income by Susen Mistri was verified. I do not know whether the income as shown in the statement may vary if scrutinize.

The income as shown in the income tax return of Susen Mistri for the assessment year 2015-2016, 2016-2017 & 2017-2018 may or may not be changed on scrutiny."

6. The deposition of P.W. 2 before the Court is exhaustive and explanatory and removes any kind of the same being manipulated documents. In view of the documents marked as Exhibits – 12 the monthly income of the victim as denoted therein after statutory deductions can be stated to be Rs. 2,99,960/-.

7. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr[1] and Sarala Verma

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

& Ors. Vs. Delhi Transport Corporation & Anr.[2] the impugned award of Rs. 33,51,250/- is modified as follows:

Annual Income	Rs. 2,99,960/-
Future Prospect to be added(25%)	Rs. 74,990/-
	Rs. 3,74,950/-
Multiplier to be "14"	X 14
	Rs. 52,49,300/-
Less: $1/4^{th}$ Personal expenses	Rs. 13,12,325/-
	Rs. 39,36,975/-
Add: General damages	Rs. 77,000/-
	Rs. 40,13,975/-
Less: Amount Award	Rs. 33,51,250/-
Enhanced compensation	Rs. 6,62,725/-

8. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 6,62,725/- along with 6 % per cent interest per annum from the date of filing of the claim application 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 disbursed the same to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Additional District Judge, Motor Accident Claims Tribunal, 4^{th} Court, Birbhum at Suri in M.A.C. Case No. 166 of 2017 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 pending applications if any stands disposed of.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(*Ananya Bandyopadhyay, J.*)

Srimanta, A.R.(Ct)

[2] **(2009) 6 SC 121**