IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 121 of 2024

National Insurance Co. Ltd.

v.

Sahina Khatun & Ors

For the Appellants : Mr. Saibalendu Bhowmik

For the Respondents : Mr. Amit Ranjan Roy

Heard & Judgment on : 08.05.2025

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 respective parties are present.
3. The legal heirs of the deceased victim, namely his wife, minor son, and parents, filed an application under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Fast Track 1st Court, Tamluk, Purba Medinipur, being M.A.C. Case No. 451 of 2019, seeking compensation to the tune of Rs. 22,00,000/- along with interest and costs, on account of the untimely death of Sk. Ahammadur Rahaman @ Sahebtulla, S/o Sk. Khelaffatulla, who met with a fatal road traffic accident on 31.08.2019 at about 12:00 hours. At the relevant time, the deceased was conversing with his friends beside NH-41 near Talibhata Bus Stop when a truck bearing Registration No. WB-298/1866, coming from the Mecheda side at high speed, struck the

victim and his companions with great force. As a result, the deceased sustained grievous injuries, particularly to his head. Though he was rescued by local people and rushed to Purba Medinipur District Hospital, he succumbed to his injuries en route. In relation to the said incident, Nandakumar P.S. Case No. 376/19 dated 03.09.2019 was registered under Sections 279, 338, 427, and 504(A) of the Indian Penal Code. Post-mortem examination was conducted at Purba Medinipur District Hospital, Tamluk. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him. National Insurance Company Limited. contested the aforesaid MAC case.

4. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded Rs. 17,44,000/- with an interest payable at 6% per annum.
5. The Learned Advocate representing the appellant/insurance company submitted that the rash and negligent driving of the offending vehicle was not proved and the victim was not entitled to compensation. Therefore, there should have been deduction 1/3rd instead of 1/4th towards personal expenditure. There had been a violation of policy trams and general damages should have been to the extent of Rs. 70,000/.
6. The Learned Advocate representing the respondents claimants submitted that the learned Tribunal was justified in computing the compensation award and this Court should not interfere with the same.
7. Considered the submission of the Learned Advocates representing for both the parties.
8. Since, the occurrence of the accident, have not been disputed by the Learned Advocate representing the appellant/insurance company, this Court restricts itself only to the points agitated by the Learned Advocate

representing the appellant/insurance company as well as respondents/claimants. The documents marked as Ext. 2 being the charge-sheet prima facie established the role of the offending vehicle should have been rashly and negligently driving by the owner of the offending vehicle. The seizure list marked as Ext. 3 seizure of insurance policy, national permit and RC book etc. with regard to the offending vehicle. The claim of the Learned Advocate representing the appellant/insurance company under such circumstances is negated. The income of the victim to be Rs. 7176/- as per the circular issued by the Government of West Bengal office of the Labour Commissioner dated 18.06.2019 was not disputed. The mother of the victim is entitled to the compensation being fully dependent on the income of the victim. Therefore, the deduction to the extent of 1/4th towards dependency was rightly assessed.

9. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr[1] and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.[2] The impugned award of Rs. 17,44,000/- is modified as follows:

Monthly income	Rs. 7176/-
Annual Income (Rs. 7176 x12)	Rs. 86,112/-
Future Prospect to be added(40%)	Rs. 34,444/-
	Rs. 1,20,556/-
1/4th Deduction	Rs. 30,139/-
Personal Expenses	
	Rs. 90,417/-

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

2 (2009) 6 SC 121

Multiplier to be " 17"	Rs. 90,417/- X 17
Non Pecuniary Damages	Rs. 15,37,089/- Rs. 70,000/-
Entitlement	Rs. 16,14,087/-

10. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 21,96,506/=(Rs. 25,000 + 2171506) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.

11. The Respondent Nos. 1 to 4/claimants are entitled to receive the amount of Rs. 16,14,087/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

12. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited to the respondent Nos. 1 to 4/claimants as mentioned by Motor Accident Claims Tribunal-cum-Additional District & Sessions Judge, Fast Track 1st Court Purba Medinipur being MACC Case No. 451 of 2019 on proof of proper identification of the respondent No.1 to 4/claimants subject to payment of ad valorem Court fees within four weeks 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.

13. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which has been further deposited in the nationalized bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company through a cheque to be deposited at the office of the appellant/insurance company.

14. The instant appeal is disposed of accordingly.

15. The interim order if any stand vacated.

16. The TCR be sent down to the concerned Tribunal forthwith.

17. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. AR. Ct.