Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Ananya Bandyopadhyay

FMA 154 of 2024

Magma HDI General Insurance Company Limited
Versus
Shipra Sarkar & Ors.

For the appellant/Insurance Company : Mr. Rajesh Singh

For the respondents/claimants : Mr. J. K. Mandal

Heard & Judgment on : 8th 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 21.08.2023 passed by the learned Additional District Judge, Fast Track Court, Motor Accident Claims Tribunal, Durgapur, Paschim Bardhaman in M.A.C. Case No. 02 of 2019.
3. An application under Section 166 of the Motor Vehicles Act, 1988 had been filed by the claimants on account of the death of the victim in an accident which occurred on 11.09.2015 at about 01.30 P.M. on Lenin Sarani near Jai Balaji Plant with the

involvement of the offending vehicle being a truck bearing registration no. WB-39A/5615 which clashed a motor cycle being driven by the victim bearing registration no. WB-40W/7695 at an exceeding speed, rashly and negligently whereby the victim fell on the road and was eventually crushed by the truck resulting in instantaneous death of the victim.

4. The learned Advocate representing the appellant/Insurance Company submitted that the victim expired in the year 2015, however, the claimants had filed the income-tax return pertaining to the year 2012-2013, 2013-2014 and thereafter 2015-2016 and 2016-2017 without the income-tax return filed for the assessment year 2014-2015 immediately proximate to the date of demise of the victim. Accordingly, the actual income of the victim imperative for the year 2014-2015 prior to his death was not filed for exact assessment. Moreover, in terms of the age of the victim to be 34 years at the time of the accident the Learned Tribunal erroneously considered the multiplier to be 17 instead of 16.

5. The Learned Advocate representing the respondents/claimants submitted that the Learned Tribunal considering both oral as well as documentary evidence had justifiably computed the awarded sum which should not be interfered by this Court.

6. Since the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the Learned Advocates representing the appellant/insurance company, this Court restricts itself only to the extent agitated by the Learned Advocates representing both the parties.
7. Considered the rival contentions of the respective parties. The evidence of P.W. 3 being the representative from income-tax office, Ward No. 4, Durgapur had filed the income-tax return for the assessment year 2012-2013, 2013-2014, 2015-2016, 2016-2017 which were marked as Exhibit-10 collectively by the learned Tribunal at the time of evidence of the same. The appellant/Insurance Company did not contradict the aforesaid P.W. 3 in cross-examination as to why the income-tax return for the year 2014-2015 was not placed on record. There had been no substantial difference in income pertaining to the assessment year 2012-2013 as well as 2013-2014 as reflected from the income-tax return annexed as Exhibit – 10 collectively. However, there had been a notable change in the figures subsequent to the death of the victim which in view of the earlier income-tax returns filed by the victim and endorsed by the P.W. 3 being a representative of the I.T.O. had been rightly considered for the

purpose of deducing the compensation amount. However, in respect of the age of the victim to be 35 years at the relevant time of the accident the multiplier should have been considered as 16 instead of 17. The plea of the appellant/Insurance Company in terms of the managerial loss is not considered and accordingly rejected.

8. 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. 23,81,762/- is modified as follows:

Annual Income	Rs. 1,45,700/-
40% Future Prospect	Rs. 58,280/-
	Rs. 2,03,980/-
1/3rd Deduction for personal expenses	Rs. 67,993/-
	Rs. 1,35,987/-
Multiplier '16'	X 16
	Rs. 21,75,792/-
General Damages	Rs. 84,000/-
Total	Rs. 22,59,792/-

9. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.33,34,682/- as

1 2017(4)TAC 673(S.C)
[2] **(2009) 6 SC 121**

per challan filed by the learned advocate representing the appellant/insurance company.

10. The Respondents/claimants are entitled to receive the amount of Rs. 22,59,792/- along with interest at the rate of 6% per annum from the date of filing of the claim application till the date of actual realization.

11. The office of the learned Registrar General, High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited with accrued interest directly to the Bank accounts of the respondents/claimants as mentioned in the impugned judgment of the Learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court, Durgapur, Paschim Bardhaman in M.A.C. Case No. 172 of 2016 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount, if any, along with accrued interest through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company. The office of the learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their Bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

12. The instant appeal is disposed of accordingly.

13. The pending applications, if any, stands disposed of.

14. 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)