

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 903 of 2024
National Insurance Co. Ltd.
Versus
Jali Bibi & Ors.

Mr. Rajesh Singh

...for the Appellant/Insurance Company.

Mr. Ali Imam Shah

...for the Respondent Nos. 1 and 2/Claimants.

Heard on : 19th February, 2025

Judgment on: 28th February, 2025.

Ananya Bandyopadhyay, J:-

1. Both the learned Advocates for the appellant/insurance company and the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 24th August, 2023 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 298 of 2021.
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 03.10.2021 at about 7.00 p.m with the involvement of the offending vehicle being Hyundai Car bearing

registration No. WB54N-9011 which collided with the motor cycle bearing registration NoWB46F-1330 on which the victim had been a pillion rider who instantaneously fell from the motor cycle and on his way to the Rampurhat Madical College and Hospital succumbed to his injuries.

4. The Learned Advocate for the appellant/insurance company submitted that in absence of oral and documentary evidence the Learned Tribunal erroneously granted a sum of Rs. 6000/- per month to be the notional income of the victim since he had been a mason. More-over, the victim had been a bachelor and the Learned Tribunal erroneously granted a sum of Rs. 80,000/- towards general damages under the head of parental consortium which required to be reduced.
5. The Learned Advocate for the respondent Nos. 1 and 2/claimants submitted that the Learned Tribunal was justified in awarding the amount of compensation and this Court should not have interfered with the same.
6. Since, the occurrence of the accident, the involvement of the offending vehicle, the route permit, the insurance policy, etc. have not been disputed by the Learned Advocate representing the appellant/insurance company, At the relevant point of time of accident, a Mason to have been earned a sum of Rs. 6000/- per month cannot be improbaised and this Court is not interfered with

the same. However, since the victim had been a bachelor a sum of Rs. 80,000/- granted towards the loss of consortium should be modified.

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. 10,17,200/- is modified as follows:

Income	Rs. 6000/-
Annual Income(Rs. 6000 x 12)	Rs. 72,000/-
Future Prospect to be added(40%)	Rs. 28,800/-
	Rs. 1,00,800/-
Personal expenses (50%)	Rs. 50,400/-
	Rs. 50,400/-
Multiplier to be "18"	X 18
Less 1/4 th for personal expenses	-----
	Rs. 9,07,200/-
General Damages	Rs. 33,000/-
Entitlement	Rs. 9,40,200/-

7. It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company has deposited The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.11,75,379/- (Rs. 25,000 + Rs. 11,50,379)through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.

8. The Respondent Nos. 1 and 2/claimants are entitled to receive the amount of Rs. 9,40,200/- 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.
9. The office of the Registrar General, High Court at Calcutta is directed to calculate the award passed by this Court today together with interest as aforesaid and disburse the same to the present respondent Nos. 1 and 2/claimants within four weeks as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 298 of 2021 and on proof of proper identification of the respondent Nos. 1 and 2/claimants subject to payment of ad valorem Court's fee and refund the differential amount if any through a cheque to the learned advocate representing the appellant/insurance company for the accounts of the insurance company.
10. 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 to the appellant/insurance company through distinct account payee cheque.

The instant appeal is disposed of accordingly.

The interim order if any stand vacated.

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

C.M.

(Ananya Bandyopadhyay, J.)