

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 1072 of 2024

Murshida Begum & Ors.

-Vs-

United India Insurance Co. Ltd. & Anr.

For the Appellants : Mr. Amit Ranjan Roy

For the Respondents/
Insurance Company : Ms. Sucharita Paul

Heard on & Judgment on : 10.04.2025

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. Six claimants in respect of the deceased filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, 11th Bench, City Civil Court, Calcutta being MAC Case No. 463 of 2017 claiming an award of more than Rs 9,50,000/- along with interest payable from the date of application till the date of realization as well as cost of litigation due to a road traffic accident on 13.07.2017 around 8:10 am. The victim was travelling by the offending vehicle, a bus bearing a registration no. WB-11 C/7698 which was driven rashly and negligently, at an exceeding speed which eventually cashed a trolley van bearing bamboo. Consequently, the victim sustained

grievous injuries and was transferred to Amta Rural Hospital where he expired. Subsequently, based on a complaint, Amta P.S. Case No. 329/17 dated 13.07.2017 under Sections 279/304-A/338 of the Indian Penal Code was instituted against the driver of the offending vehicle as aforesaid. The owner of the vehicle did not appear before the learned Tribunal and the MAC case was preceded ex-parte against the same. The respondent, United India Insurance Co Ltd. contested the aforesaid MAC case. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidences and awarded Rs 4,12,000/- along with interest payable at 6 % from the date of filing the case being 01.08.2017 till realization of the said compensation amount in full.

4. The Learned Advocate representing the appellant submitted that the monthly income of Rs. 9000/- per month of the victim should have been considered instead of Rs. 3000/- per month. The learned Advocate representing the appellants/claimants submitted the learned Tribunal in absence of proof of the victim to have been a skilled or unskilled worker should have applied the provisions under the Minimum Wages Act. The amount towards general damages was not properly granted. There should have been a deduction of 1/4th towards personal expenditure since the number of claimants had been five.

5. The Learned Advocate representing the respondent No.1/insurance company submitted that the avocation of the victim could not be proved through proper evidence. The claim of the victim working at "Azad Shop" could not be established since the said shop was not in existence. More-over, the claimants

were granted a sum of Rs. 1,00,000/- towards general damages which should be reduced.

6. Considered the submission of the Learned Advocates representing both the parties.

7. Since the occurrence of the accident and other ancillary issues have not been disputed by the Learned Advocate representing the respondent No.1/insurance company, this Court restricts itself only to the points agitated by the Learned Advocate representing the appellant/claimant as well as respondent No.1 /Insurance Company. The accident occurred in the year 2017 and in absence of specific oral as well as documentary evidence considering the fiscal index prevalent at the relevant point of time and also the avocation of the victim as affirmed by the P.W.1. The monthly income of the victim to be Rs. 6000/- should not be improbable. The amount of general damages to the extent of Rs. 1,00,000/- is excessive which should be reduced to be Rs. 84,000/-. The element of future prospect should be granted to the extent of 25%, considering the number of claimants to be 5 and the 1/4th deduction towards personal expenditure to be accorded.

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. 4,12,000/- is modified as follows:

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

Monthly Income	Rs. 6000/-
Future prospect (25%)	Rs. 1,500/-
	Rs. 7,500/-
	x 12
Annual income	Rs. 90,000/-
Personal Expenses 1/4 th	Rs. 22,500/-
	Rs. 67,500/-
Multiplier "13"	X 13
	Rs. 8,77,500/-
General Damages	Rs. 84,000/-
	Rs. 9,61,500/-
Award Received	Rs. 4,12,000/-
Entitlement	Rs. 5,49,500/-

9. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 4,12,000/- from the Learned Tribunal. The appellants/claimants are entitled to a sum of Rs. 5,49,500/- along with interest at the rate of 6% per annum to be paid from the date of filing of the claim application i.e. 01.08.2017 till the date of realization.
10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 5,49,500/- along with interest as aforesaid before the office of the learned Registrar General High Court at Calcutta within 12 weeks from the date of passing of this order.
11. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and, thereafter, disburse the same to the present appellants /claimants in the award passed by the Court of Motor

Accident Claims Tribunal, 11th Bench, City Civil Court, Calcutta being MAC Case No. 463 of 2017 on proof of proper identification of the appellants /claimants subject to payment of ad valorem Court's fees.

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.)