

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 349 of 2024

Rukkini Saha & Ors.

v.

M/S. Chola Mandalam MS Gene. Insurance Co. Ltd. & Anr.

For the Appellants/Claimants : Ms. Sima Ghosh

For the Respondent No.1/
Insurance Company : Mr. Soumalya Ganguly

Heard and Judgment on : 15/05/2025

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 the both the parties are present.
3. Three claimants of the deceased victim filed an application under Section 166 of the M.V. Act in the Court of Motor Accident Claims Tribunal, ADJ, 4TH Court, Berhampur, Murshidabad being MAC Case No. 364/2016, claiming an award of Rs. 30,00,000/- whereby the victim expired due to a road traffic accident on 01/07/2016 at about 11:00 hrs. The offending vehicle being a truck bearing Registration No. WB-57C/2716 hit the aforesaid deceased in a rash and negligent manner while he was travelling by bicycle. He was taken

to Murshidabad Medical College and Hospital at Behrampore for his treatment where he succumbed to his injuries.

4. A written complaint was filed which initiated Berhampore Case No. 627/2016 dated 02.07.2016 against the offending vehicle.
5. The owner of the offending vehicle did not contest the case and case proceeded ex parte against him.
6. M/S. Chola Mandalam MS Gene. Insurance Co. Ltd. contested the aforesaid MAC case.
7. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded Rs 5,99,500/- with a interest payable at 6% per annum.
8. The Learned Advocate representing the Respondent No.1/Insurance Company submitted Learned Tribunal had rightly assessed the compensation award, which should not be interfered with.
9. Heard the submission of the learned advocates representing the respective parties.
10. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. 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 extent as agitated by the Learned Advocates representing the both the parties. The document marked as “**Exhibit 12**” should have been considered to assess the yearly income of the victim.
11. In view of the above observation of the Hon’ble Supreme Court in the decisions cited in ***National Insurance Company Ltd. Vs. Pranay Shetty &***

Anr.¹ and Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr²

the impugned award is modified as follows: -

Annual Income		Rs.2,74,265/-
Add 10% Future Prospect		Rs. 27,426/-
Total loss of income 100%		Rs.3,01,691.50/-
After 1/3 rd Deduction for personal expenses		Rs.2,01,127/-
Multiplier would be 11		X 11
Total amount		Rs.22,12,404/-
Add General Damages		Rs. 77,000/-
Total		Rs.22,89,404/-
Less amount already received		Rs.16,48,800/-
Entitlement		Rs. 6,40,604/-

12. The Learned Advocate for the Appellants/Claimants submitted that the appellant/claimant has withdrawn a sum of Rs. 16,48,800/-. The Appellant/Claimant is entitled to receive the balance amount of Rs.6,40,604/- 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.

13. The learned advocate for the Respondent No.1/Insurance company is to deposit the balance sum of Rs.6,40,604/- 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.

¹ 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

14. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants as mentioned in the award passed by Motor Accident Claims Tribunal, ADJ, 4th Court, Berhampur, Murshidabad in M.A.C Case No.364 of 2016 on proof of their proper identification of the appellants/claimants subject to payment of ad valorem Court's fees.
15. The instant appeal is disposed of accordingly.
16. The Trial Court Records shall be sent down to the concerned tribunal forthwith.
17. Copy of the order be sent to the Department as well as concerned tribunal for information.
18. Parties to act upon the server copy of this judgment.

(Ananya Bandyopadhyay, J.)

S.R. (A.R.C.)