

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

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**F.M.A 397 of 2021**

**CAN 1 of 2020**

**CAN 2 of 2020**

**Bajaj Allianz General Insurance Co. Ltd.**

**-Vs-**

**Gokul Chandra Paul & Ors.**

For the Appellants : Mr. Rajesh Singh

For the Respondent Nos. 1 & 2 : Mr. Saidur Rahaman

Heard & 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 both the parties are present.
3. The claimant, being the wife of the victim, filed an application under Section 163-A of the Motor Vehicles Act before the Motor Accident Claims Tribunal, claiming compensation for the injuries sustained by her husband, Salim Sk, in a motor accident that occurred on 26.07.2004 at about 12:00 hrs. The accident took place on D.H. Road near Sirakol, under the jurisdiction of Usthi Police Station, while the victim, a rickshaw puller, was proceeding towards Kolkata. The offending vehicle, a TATA Sumo bearing Registration

No. WB-20B/9476, which was being driven in a rash and negligent manner in the same direction, dashed the victim from behind, causing him severe bodily injuries.

4. The victim had been admitted to hospital for treatment from 26.07.2004 to 23.08.2004 and had incurred substantial medical expenses during that period. It was submitted that the driver of the offending vehicle was solely responsible for the accident, and as a result, the victim suffered not only physical injuries but also financial hardship, mental pain, and permanent disability that affected his ability to lead a normal life.
5. The claimant prayed for compensation of Rs. 1,50,000/- along with medical expenses and interest. It was submitted that at the time of the accident, the victim was 39 years old and was earning Rs. 3,000/- per month as a rickshaw puller. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him. The respondents, The National Insurance Co. Ltd. contested the aforesaid MAC case.
6. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded a sum of Rs. 2,30,400/- as well as an interest of 8% from the date of filing the case till the realization of the amount.
7. The Learned Advocate representing the appellant/insurance company submitted that the offending vehicle was falsely implicated in the instant case as an afterthought since there had been a delay of 5 days in lodging the same. Moreover, the route permit was not granted to the owner of the offending vehicle for its conveyance. Therefore, the appellant/insurance

company should be given liberty to recover the compensation paid to the victim from the owner of the offending vehicle. The general damages including the loss of consortium should be reduced to Rs. 77,000/- from Rs. 1,25,000.

8. The Learned Advocate representing the respondent Nos. 1 and 2/claimants submitted that the learned Tribunal considering each and every aspect has rightly granted the award which should not be interfered with.

9. Considered the submission of the Learned Advocates representing for both the parties.

10. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, etc. 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 delay of 51 days in filing the complaint have been explained and said delay being so nominal could not affect the claim of the respondents/claimants. Moreover, the charge sheet as described the details of the offending vehicle with regard to its nature and registration number. The appellant/insurance company did not take any plea that the offending vehicle was not granted valid route permit before the learned Tribunal. Accordingly, his debar the Learned Advocate representing the appellant/insurance company to claim right to recover at this juncture. The sum of Rs. 1,25,000/- paid towards loss of consortium should be reduced to Rs. 77,000/-

11. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr<sup>1</sup> and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.<sup>2</sup> The impugned award of Rs. 51,87,080/- is modified as follows:

|                                   |                       |
|-----------------------------------|-----------------------|
| Net Salary                        | Rs. 26,365/-          |
| Future Prospect to be added( 50%) | Rs. 13,182/-          |
|                                   | <hr/> Rs. 39,547/-    |
| 1/3 <sup>rd</sup> Deduction       | Rs. 13,182/-          |
| Personal Expenses                 | Rs. 26,365/-          |
|                                   | <hr/> Rs. 3,16,380/-  |
| Annual Income(Rs. 26365 x 12)     | X 16                  |
| Multiplier to be " 16"            | <hr/> Rs. 50,62,080/- |
| General Damages                   | Rs. 77,000/-          |
|                                   | <hr/> Rs. 51,39,080/- |
| Entitlement                       |                       |

12. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 66,94,109/=(Rs. 25,000 + 66,69,109) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.

13. The Respondent Nos. 1 and 2/claimants are entitled to receive the amount of Rs. 51,39,080/- along with interest at the rate of 6% per cent

---

<sup>1</sup> 2017(4)TAC 673(S.C)

<sup>2</sup> (2009) 6 SC 121

per annum from the date of filing of the claim application till the date of actual realization.

14. 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 and 2/claimants as mentioned by learned Judge, Motor Accident Claims Tribunal cum 1<sup>st</sup> Court, Additional District Judge, Cooch Behar in M.A.C. Case No. 40 of 2016 on proof of proper identification of the respondent No.1 and 2/claimants subject to payment of ad valorem Court fees within four weeks and refund the balance amount through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.
15. 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.
16. The instant appeal and connected applications are disposed of accordingly.
17. The interim order if any stand vacated.
18. The TCR be sent down to the concerned tribunal forthwith.

19. 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.**