

S/L 118
29.06.2026
Court No.9
Swd

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 1010 of 2008

**Parul Bala Koley
Vs.
National Insurance Company Ltd. & Anr.**

Mr. Subrata Ghosh.

... for the Appellant.

Mr. Rajesh Singh.

... for the Respondent.

1. The learned Advocates for the parties are present.
2. The appellant before this Court was a claimant in a case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award dated 31st August, 2009, passed in M.A.C case No.371 of 97 and 370 of 97 by the learned District Judge, Burdwan, presently Purba Bardhaman. The grievance of the claimant appellant is that the learned Trial Judge without considering the principles and guidelines laid down under the Motor Vehicles Act, 1988 and without following the second schedule have awarded compensation of Rs.1,50,000/- which in the view of the appellant is meagre.
3. Learned Advocate submits that the learned Trial Judge ought to have granted compensation upon

following the procedure and guidelines as provided in the second schedule of the Motor Vehicles Act, 1988 which was prevailing at the time when the case was taken up for consideration.

4. Learned advocate appearing for the respondent Insurance Company disputes the submission of the learned Advocate for the appellant.
5. Upon perusing the judgment and award passed by the learned Trial Court, it appears that the learned Trial Court granted compensation of Rs.50,000/- under section 140 of the Motor Vehicles Act and Rs.1,00,000/- as considering it just and reasonable. Although Courts and Tribunals are empowered to pass award of compensation which in the opinion of the Courts and Tribunals are just and reasonable, but prior to passing such award some guidelines and procedures should be followed in the interest of justice.
6. Thus, in the facts and circumstances of the case, this Court is of the view that considering the schedule and considering different judicial decisions, it would be just and reasonable to consider the monthly income of the victim to be Rs.2,000/-. Considering future prospect of 40% which is Rs.800/-, the net monthly income comes to Rs.2,800/-. The annual income comes

to Rs.33,600/-. The personal expenses at the rate of 50% should be deducted and the net annual dependency loss comes to Rs.16,800/-.

7. Considering the age of the victim, multiplier of 18 should be applied and the total dependency loss comes to Rs.3,02,400/-. Further, the claimant/appellant is entitled to general damages on account of funeral expenses, loss of estate and loss of consortium to the extent of Rs.30,000/-. Thus, total compensation comes to Rs.3,32,400/- by arithmetical calculation. However, in the view of this Court, compensation of Rs.3,30,000/- is just and reasonable.
8. Thus, this appeal **FMA 1010 of 2008** stands disposed. The judgment and award passed by the learned District Judge, Burdwan, presently Purba Bardhaman dated 31st August, 2009, in M.A.C case No.371 of 97 and 370 of 97 is modified to the extent that the appellant/claimant is entitled to compensation of Rs.3,30,000/- along with interest at the rate of 6% per annum from date of filing of the claim case till today.
9. The respondent National Insurance Company Limited shall deposit Rs.3,30,000/- along with interest at the rate of 6% per annum within eight weeks from the date of communication of this order before the Registrar General, High Court, Calcutta. In the event the compensation awarded

by the learned Trial Court is already paid, the balance amount be deposited.

10. The appellant claimant is entitled to withdraw the compensation upon compliance of necessary formalities. The deficit of fees on the enhanced amount be paid within four weeks from date.

11. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(BISWAROOP CHOWDHURY, J.)