Item No. 04 | 04.02.2026

Ct 09

rup

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 1782 of 2018

National Insurance Co. Ltd.
Vs
Smt. Bhanumati Rajak & Ors.

Mr. Parimal Kumar Pahari.
... for the appellant.

Mr. Dipankar Dandapath.
... for the respondents/claimants.

Learned advocates for the parties are present.

Heard learned advocates for the parties.

The Appellant/National Insurance Co. Ltd. before this Court was a opposite party in a case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the judgment and award dated 07.11.2017 passed by the Learned Additional District Judge, 2nd Court, Bankura in MACC No. 186 of 2011/13 of 2015. The case of the claimants/respondents nos. 1, 2 and 3 may be summed up thus:

On 01.12.2011 at about 04.30 pm, deceased Ranjit @ Ranjit Kumar Rajak along with his friend Jayanta Sarkar, since deceased, were coming from the said of Amarkanan, Bankura, by riding motorcycle vide Registration No. WB 67B/9851 through N. H. way 60 and when they reached near Barjun more, the offending dumper bearing no. WB 37/0163 was coming from the said direction with a high speed rashly and negligently and dashed the motorcycle from behind, as a result, Ranjit @ Ranjit Kr. Rajak and his friend pillion rider of the motor cycle sustained grievous injury on their persons and then and there, local person removed them to Amarkanan Hospital where the attending doctor declared Ranjit @ Ranjit Kr Rajak as dead and referred Jayanta Sarkar, pillion rider to BSMCH, Bankura where he was also declared dead. According to the claimants the alleged accident occurred due to rash and negligent driving of the driver of the offending vehicle deceased Ranjit @ Ranjit Kr. Rajak had valid licence to drive motorcycle. It is also the case of the claimants that Ranjit @ Ranjit Kr. Rajak was 38 years old and an Assistant Teacher of Kukhrajore High School, under PS G. Ghati and got salary of Rs.24,576/- per month on the date of accident and due to sudden immature demise the claimants got mental shock and have been suffering pain agony and financial problem. Thus they filed the instant petition praying for compensation to the tune of Rs.30,00,000/- against the opposite parties.

The appellant/insurance company contested the claim case by filing written statement. The issues were framed and evidence was adduced by the claimants/respondents 1, 2 and 3.

By the judgment and award dated 07.11.2017, the Learned Trial Judge disposed of the claim case by observing and directing as follows: -

"Hence, it is

ORDERED

that the MAC case be and the same is allowed on contest against the opposite parties without cost.

The petitioners are entitled to get compensations of Rs.52,52,020/- with 6 per cent interest from the date of filing this case till payment from the OP no.2.

The OP no 2 is directed to pay the aforesaid compensation with 6% interest from the date of filing this case till payment within one month by issuing three equal amount cheques in the name of the petitioners and deposit the same before the court of this order.

The petitioners are directed to deposit the deficit court fees within 15 days from this order.

The Cheque in the name of the minor petitioner be deposited in any Nationalized Bank by opening account under Fixed deposit scheme and remain the same till become major. However, in case urgency need, the petitioner/mother is permitted to withdraw the said fixed deposit amount in the name of her minor daughter subject to permission of this court.”

The Appellant/National Insurance Co. Ltd. being aggrieved by the judgment and award passed by the learned Trial Court has come up with the instant appeal.

Heard learned advocates for the appellant/insurance company and learned advocate for the respondent nos.2 and 3/claimants. Perused the materials on record.

Learned advocate for the appellant/insurance company submits that Learned Trial Judge ought to have assessed the compensation by taking into consideration the salary of the victim which was Rs.24,446/- after deducting the profession tax and income tax. Learned advocate further submits that although the professions tax and income tax ought to have been deducted but the Learned Trial Judge proceeded without deducting the profession tax and income tax from the income of the victim. Learned advocate further submits that the learned Trial Judge erred in not deducting 1/3 on account of personal expenditure from the future prospect. Learned advocate also submits that the income tax and profession tax should be deducted from the gross salary of the victim and 1/3 personal expenses should be deducted from the future prospect of the victim and the compensation should be awarded accordingly.

Upon hearing the learned advocate and considering the facts of the case and upon perusal of the material on record, it appears that although the profession tax deducted from the salary of the victim was Rs.130 and income tax Rs.100, but Rs. 230 was not deducted from the gross salary of the victim while assessing the compensation. Further 1/3 personal expenses from future prospect after taking into consideration which is 12,223/- should be adjusted and thereafter the annual dependency loss should be ascertained. Thus, the monthly income of the victim is considered as Rs.24,446/-. The future prospect taken into consideration to the extent 50% comes to Rs.12,223. Thus, the total monthly income comes to Rs. 36,669/-. 1/3 of personal expenses which comes to Rs.12,223/- being adjusted the net monthly income comes to Rs.24,446/-. As the monthly income is Rs.24,446, the annual dependency loss comes to Rs.2,93,352/-. Considering the age of the victim, the multiplier of 15 should be applied and the total dependency loss comes to Rs. 44,00,280/-. The general damages on account of consortium loss of estate and funeral expenses should be 84,000/-. Thus Rs. 44,84,280/-

comes as total compensation by mathematical calculation. This Court is of the view that Rs. 44,84,000/- is the just and reasonable compensation.

Thus, the respondent No.2/Smt. Chaitali Rajak and respondent No.3/Chitrita Rajak are entitled to Rs.44,84,000/- from the Appellant/National Insurance Co. Ltd. along with interest 6% per annum from the date of filing of the claim case till today.

The respondent nos.2 and 3 are permitted to withdraw the compensation amount of Rs.44,84,000/- from the sum deposited by the Appellant/National Insurance Co. Ltd. along with interest @6% from the date of filing of the claim case till today after compliance of all necessary formalities.

The residuary amount lying in the deposit shall be returned to the Appellant/National Insurance Co. Ltd.

The amount should be disbursed in equal shares.

With the aforesaid observation, the appeal stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Biswaroop Chowdhury, J.)