S/L 2-3
15.06.2026
Court No.9
Swd

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 1198 of 2025
With
IA NO: CAN/2/2025

National Ins Co Ltd
Vs.
Ranjita Kapat Mandal & Ors.

With
COT 134 of 2025

Ranjita Kapat Mandal & Ors
Vs.
The National Ins Co Ltd & Anr.

Mr. Sanjay Paul.
… for the Appellant/Insurance Company.

Mr. Amit Ranjan Roy.
… for the Respondent/Claimant.

1. The learned Advocate for the parties are present.
2. The application being CAN 2 of 2025 for recording the majority of respondent No.3 is taken up for consideration. It is the contention of the respondent Nos.1 and 2 that respondent No.3 has attained majority during pendency of the appeal. A copy of the birth certificate is annexed to this application. Thus this application is allowed. The majority of respondent No.3 be recorded and necessary amendment be carried out by the department.
3. The appeal is taken up for hearing. Heard the learned advocates for the parties.

4. The appellant, National Insurance Company Limited, before this court, was an opposite party in a case under Section 166 of the Motor Vehicle Act, 1988, and is aggrieved by the judgment and award dated 11th April, 2035, passed by learned Additional District Judge, 1st Court, Tamluk, Purba Medinipur, in MAC Case No.99 of 2020.
5. The respondent Nos.1 to 4 being also aggrieved by the judgment and award passed by the learned Trial Judge has come up with the cross-objection. The case of the respondent Nos.1 to 4 claimants before the learned Trial Court may be summed up thus.
6. On 16th July, 2019, at about 1.00 p.m. to 1.30 p.m., when the victim was going from Koliswar to Mechogram through the NH-6 keeping his left side of road, suddenly the offending vehicle being No.WB-15A/7086 (Bus), was coming from Mecheda side to Tarakeswar side with terrific high speed in a rash and negligent manner, dashed the victim and as a result the victim sustained serious injury and died on the spot. The accident was caused due to rash and negligent driving on the part of the driver of motor vehicle bearing number WB-15A/7086 (Bus).
7. The victim was the only earning member of his family. All the claimants were dependent upon

the income of the victim and the victim was executive of Maruti Marketing.

8. Pursuant to filing of this case, notice was issued upon the opposite party. Opposite party National Insurance Company Limited appeared in the case filed written statement and contested the same. The opposite party, vehicle owner, did not appear to contest the case. Issues were framed and evidence was adduced.

9. Learned Trial Judge, upon considering the evidence and upon hearing the learned advocates, was pleased to dispose of the claims case by observing and directing as follows:-

"That the instant MACC. No. 99 of 2020 be and same is allowed on contest against OP No.2, National Insurance Co. Ltd. and ex-parte against the OP No.1 without costs.

The Claimants/Petitioners do get award of Rs. 24,42,500/(Rupees Twenty Four Lakhs and Forty Two Thousand and Five Hundred only) as compensation of which the compensation amount of Rs.19,70,000/- will carry interest @ 6% per annum from the date of filing claim petition i.e. on and from 10.02.2020 till realization of the award. No interest will carry on the amount of future prospects.

The OP No.2, National Insurance Co. Ltd. being the insurer of the Vehicle bearing Registration No. WB-

15A/7086 is directed to pay the com- pensation award by issuing 4 (Four) Account Payee Cheques together with interest thereon @ 6% per annum (No interest will be charged on the amount of future prospects) to the Petitioners/Claimants within 60(Sixty) days from the date of order id. the Claimants/Petitioners shall be at liberty to realize the awarded amount through due process of law.

The petitioner no.1 being the mother and natural guardian of the minor petitioner Nos. 3 & 4 shall deposit the compensation amount of the minor petitioners/claimants nos. 3 & 4 in any Nationalized Bank for long term fixed deposit in the name of the minor petitioners/claimants until the minor petitioners/claimants attain majority and the petitioner no.1 shall file indemnity bond to that effect that she shall be liable to compensate the amount if not deposited the same in minors name.

The petitioner No.1 shall also file the copy of the fixed deposit certificate within a month from the date of receiving the cheque of the petitioner nos. 3 & 4.

The claimants are directed to pay the required D.C.F. within 10 days from the date of passing order."

10. The appellant/Insurance Company, being aggrieved by the judgment and award passed by

the learned Trial Court has come up with the instant appeal. The respondent Nos.1 to 4/claimants being also aggrieved by the judgment of the Trial Court have filed cross objection.

11. Heard learned Advocate for the appellant and learned Advocate for the respondent Nos.1 to 4/ claimants. Perused the evidence adduced and materials on record. Learned Advocate for the Appellant/Insurance Company submits that although the learned Trial Judge found certain disputes with regard to the income of the victim, but the learned Trial Judge erred in considering the income to be Rs.15,000/-.

12. Learned advocate further submits that as per Government Circular dated 24.06.2019, the income of a highly skilled worker should be Rs.10,884/-. Learned Advocate also submits that the compensation awarded is excessive and that should be reduced.

13. Learned advocate for the respondent Nos.1 to 4/ claimants who have filed cross objection submits that the learned trial judge erred in proceeding on the basis of notional income although the claimants were able to prove their income.

14. Learned Advocate draws attention to the deposition of PW3 and submits that although the employer was examined and the documents of

the income regarding salary was exhibited, but the learned Trial Judge erred in disbelieving the same.

15. Upon perusing the materials on record and upon hearing the learned Advocate it appears that the income of the victim was sought to be proved by examining the employer of the victim.

16. It further appears from records that not only PW3 proved the documents regarding trade licence, salary slip and the attendance register, but the insurance company also examined one investigator who was directed to investigate the case. It is the deposition of OPW-1 that he has collected the payslips of the deceased for the month of April, May 2014 and January to April, 2018 and January to February, 2019. Thus, it is not disputed by the insurance company that the deceased used to work at the Maruti Marketing.

17. Upon perusal of the evidence of PW-3, it appears that PW-3 stated that the victim Abhijit Mandal was his employee. He has also filed the trade licence and the payslips of the victim. Upon perusal of the payslips, it will appear that the victim used to earn a net salary of Rs.43,800/-. Apart from filing salary slips, PW-3 also filed the attendance register.

18. Upon comparative study of the documents filed by PW-3 and considering the oral evidence and different judicial decision, this Court is of the view that in order to prove the income of the victim, it is necessary that his employer should be examined. With regard to the documents which are required to be filed by the employer about the victim being his employee depends upon the size of the business, the nature of the business and the total number of employees engaged. It is always not necessary that all business establishments should maintain the records in detail.

19. In the event, the salary slip of a deceased employee is filed and from the oral evidence, the Court gets inspiration that the victim was an employee of the said undertaking, the Court can consider the same and proceed on to decide the compensation on the basis of the income as stated by the employer of the victim.

20. Upon considering the evidence of PW-3 and the evidence of PW-1, the Court is of the view that the claimants were able to establish that the victim was an employee of Maruti Marketing and he used to earn Rs.43,800/- per month. Thus, the respondent Nos.1 to 4/ claimants are able to prove the occupation of the victim as well as the income.

21. In the event, the monthly income is considered as Rs.43,800/-, the yearly income comes to Rs.5,25,600/-, one-fourth being deducted on account of personal expenses, the yearly income comes to Rs.3,94,200/-. The future prospect of 25% being added, the annual dependency loss comes to Rs.4,92,750/-. As the multiplier of 14 applied, the total dependency loss comes to Rs.68,98,500/-. Further, the respondent Nos.1 to 4/ claimants are entitled to get Rs.1,10,000/- on account of loss of estate, loss of consortium and funeral expenses. Thus, Rs.70,08,500/- is the total compensation which comes by arithmetical calculation. However, this Court is of the view that Rs.70 lakh compensation is just reasonable.

22. Hence, these appeals FMA 1198 of 2025, COT 134 of 2025 and the connected application CAN 2 of 2025 stands disposed. The judgment and award dated 11th April, 2025 passed by the learned Additional District Judge, 1st Court, Tamluk, Purba Medinipur, in MAC Case No.99 of 2020 is modified to the extent that the respondent Nos.1 to 4/ claimants are entitled to Rs.70 lakh along with the interest at the rate of 6% per annum from 10.02.2020 till today.

23. The Appellant/Insurance Company shall deposit Rs.70 lakh along with interest at the rate of 6%

before the Registrar General, High Court, Calcutta within eight weeks from the date of communication of this order.

24. In the event, the amount awarded by the learned Trial Judge is already deposited the balance amount be deposited. Respondent Nos.1 to 4/ claimants will be entitled to withdraw the compensation upon compliance of all the necessary formalities.

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

(**BISWAROOP CHOWDHURY, J.)**