Court No. 9
16.02.2026
(Item No. 2)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

F.M.A. 123 of 2024

United India Insurance Company Limited
VS
Bidyashree Ghosh & Ors.

Ms. Sucharita Paul
.... For the appellant
Mr. Sirajul Islam
Mr. Saswata Bhattacharyya
.... For the respondents

Learned advocates for the parties are present.

Heard the learned advocates for the parties.

The appellant before this Court was an opposite party in a claim case under Section 166 of the Motor Vehicles Act, 1988 and is aggrieved by the Judgment and Award dated 11-8-2018 passed by the learned Additional District Judge, Fast Track 2nd Court, Alipore, South 24 Parganas in MAC Case No. 08 of 2018.

The case of the claimant/appellant before the learned Trial Court may be summed up thus:

On 25.5.2017 at about 11.30 A.M. the offending vehicle bearing No. WB 25C 5090 (Bus) was coming from Malancha side to Kolkata side along the Basanti road and when the same offending vehicle reached near Minakha it suddenly dashed the victim with the rash and negligent driving. The victim sustained serious injuries and after shifted to

Minakha Hospital attending the Doctor of the said hospital referred to Calcutta National Medical College & Hospital after his treatment the victim was admitted to Amri Hospital and subsequently the victim died on 25.5.2017.

The accident occurred due to rash and negligent driving of the offending driver of the vehicle bearing No. WB 25C 5090 (Bus). The applicants were dependent upon the sole income of the victim. The widow and daughters of the victim have no personal source of income. As such the applicants are fully dependent upon the sole income of the victim and the applicants are entitled to get compensation due to loss of income of the death of the victim as well as loss of love affection, pain and suffering and other reliefs.

Pursuant to filing of this case notice was issued upon the opposite parties. The opposite party United India Insurance Company Limited contested the case by filing written statement.

By judgment and award dated 11th August 2023 Learned Trial Judge disposed the claim case by observing and directing as follows:

'Hence it is ORDERED that the instant case, filed under Section 166 of Motor Vehicles Act 1988, is allowed on contest against the OP. No-2/Insurer and ex-parte against the Opposite Party No.-1/Owner;

That the claimants do get an award of Rs. 6,44,140/- plus (+) Rs.5,000/- (litigation cost) totaling to Rs.6,49,140/- (Six Lakh forty nine thousand one hundred and fourty)

that the amount of compensation, as awarded, shall carry a simple interest @ 7.5% per annum from the date of filing of this case i.e. on and from 07.02.2018 till final realization of entire amount;

The Opposite Party No. 2/The United India Insurance Co. Ltd. is directed to pay the awarded amount by issuing two Account Payee Cheques. The claimant No. 01 namely Bidyashree Ghosh (daughter of the deceased), and claimant No. 02 namely Jayashree Sarkar Adhikari (daughter of the deceased) will be awarded of Rs.3,24,570/- (Rupees Three Lac Twenty four thousand five hundred seventy) each along with interest as stated within 90 days hereof failing which claimants will be at liberty to put this order into execution with further interest @ 7.5% per annum from the date of order till the date of realization.

However, considering the entire aspects this Tribunal passes no order as to the costs.

Deficit Court Fees still not paid, thus Claimants are directed to pay Deficit Court Fees at the earliest and then copy of judgment may be supplied to give effect to the order passed herein.'

The appellant/United India Insurance Company Limited being aggrieved by the Judgment and Award passed by the Learned Trial Judge has come up with the instant appeal.

Learned advocate for the appellant submits that the married daughters being not dependent upon the victim the learned Tribunal erred in awarding compensation in favour of the married daughters. Learned advocate further submits that the learned Trial Judge further granted consortium of Rs.88,000/- in favour of the married daughters. Learned advocate also submits that the interest awarded is excessive.

Learned advocate for the respondents/ claimants dispute the submission of the learned advocate for the appellant and relies upon the decision of the Hon'ble Supreme Court in the case of Oriental Insurance Co. Ltd. Vs. Kahlon reported in (2022) 13 SCC 494.

Upon hearing the learned advocates and considering the facts of the case and the decision of the Hon'ble Supreme Court in the case of Oriental Insurance Company Ltd. (Supra) this Court is of the view that the married daughters cannot besaid to be disentitled to the compensation in case of the death of their father.

Learned Trial judge also relied upon certain judicial decisions to support this view. However, with regard to the consortium granted by the learned Trial Judge in favour of both the married daughters of Rs.44,000/- each this Court is of the view that considering the decision of the Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi reported in AIR 2017 SC 5157 the consortium cannot be granted to the daughters of a deceased person.

However, considering the fact that the widow mother of the claimants could have obtained the consortium Rs.44,000/- granted in favour of the claimants/respondents, consortium at Rs.44,000/- may be granted.

Thus, in the event the monthly income is considered to be Rs.13,079/-, 1/3 personal expenses deducted it comes to Rs.8,719/-. The annual income comes to Rs.1,04,628/-. Considering the age of the victim multiplier of 5 should be applied. Thus Rs.5,23,140/- is the total dependency loss. Further, the claimants are entitled to consortium of Rs.44,000/- and Rs.16,500/- each on account of loss of estate and funeral expenses. Thus, Rs,6,00,140/- is the total compensation which comes arithmetical calculation regarding the entitlement of the claims to the respondent nos. 1 and 2.

However, this Court is of the view that Rs.6,00,000/- compensation is just and reasonable.

Thus, the respondent nos. 1 and 2 is entitled to a compensation of Rs.6,00,000/- from the appellant Insurance Company along with interest @ 6% per annum from the date of filing of the claim case till today.

The appellant/Insurance Company shall deposit the awarded sum along with interest within a period of eight weeks from the date of communication of this order. In the event, the amount is already deposited the claimants/respondent Nos. 1 & 2 will be entitled to withdraw Rs.6,00,000/- along with interest @ 6% per annum from the date of filing of the claim case on 07.2.2018 till today as well as accrued interest. The balance amount, if any, along with accrued interest shall be returned to the appellant/Insurance Company.

The respondent Nos. 1 and 2 will be entitled to withdraw the sum deposited upon compliance of the necessary formalities.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)