S/L 49
20.05.2026
Court. No. 5
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CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

FMA 23 of 2025

Bulbuli Nechha
Vs.
Chola MS General Insurance Company LImited & Anr.

Mr. Anirban Banerjee
Mr. Arka Deb
Mr. Soumyajit Laskar

... for the appellant.

1. The appellant has filed the present appeal being aggrieved and dissatisfied with the judgment passed by the learned Motor Accident Claims Tribunal, 2nd Fast Track Court, Jalpaiguri in MAC Case No. 365 of 2020 (Bulbuli Nechha Vs. Makleswar Rahaman & Anr.) dated November 29, 2023.

2. The appellant has filed the present appeal only on the ground that the learned Tribunal has considered annual income of the deceased as Rs. 5,000/- i.e., Rs. 60,000/- per annum. Learned counsel for the appellant submits that the learned Tribunal ought to have considered the notional income of the deceased as per the Minimum Wages Act as per unskilled mazdoor but instead of considering the same, has considered the monthly income of Rs. 5,000/- without any reason.

3. He further submits that the learned tribunal has awarded interest at the rate of 6% per annum instead of 9% per annum.

4. Learned counsel for the appellant submits that the deceased was working as mazdoor in the cultivation

field and, as such, the income of the deceased is to be taken into consideration as unskilled mazdoor. He has relied upon the circular issued by the Government of West Bengal with regard to the fixation of the minimum wages wherein for the unskilled mazdoor, the minimum wage is fixed at Rs. 375/-. He submits that if the wages of the unskilled mazdoor is taken into Rs. 375/-, the monthly income would be Rs. 11,250/- but the learned Tribunal has taken into consideration Rs. 5,000/- per month.

5. The petitioner has relied upon the judgment in the case of ***Aruna Devi & Anr. Vs. Ali Hasan & Ors.*** reported in ***2026 SCC Online Del 2174*** and submits that in the said case, the Hon'ble Delhi High Court has held that the reasonable basis for determining the loss of dependency even in the case of a minor, would be the minimum wages notified by the State Government where the minor resides at the time of the accident.

6. By referring the said judgment, learned counsel for the appellant submits that in the present case, the State Government has notified the minimum wages of Rs. 375/- per day for unskilled labourer and per month Rs. 9,760/- and, as such, the learned Tribunal ought to have considered the minimum wages of the petitioner as Rs. 9,760/- per month.

7. He further submits that the learned Tribunal has awarded interest at the rate of 6% per annum from

date of application and in failure to pay within 60 days 9% as penal interest from the date of application. He submits that the learned Tribunal ought to have granted 9% interest from the date of application.

8. Heard the learned counsel for the petitioner. Perused the materials on record.

9. The claimant is the mother of the deceased. The deceased was unmarried and was aged about 20 years. As per the evidence, the deceased was working as a daily wage worker in the private field. Though the learned Tribunal has considered the monthly income of the deceased as Rs. 5,000/- but the learned Tribunal has not assigned any reason how the Tribunal has considered the monthly income of the deceased as Rs. 5,000/- and why the Tribunal has not taken a notional income by taking into consideration of the minimum wages notified by the State Government for unskilled workers.

10. Considering the above, this Court finds that the learned Tribunal has erred in calculating the monthly income of Rs. 5,000/- instead of considering the daily wages of the deceased as Rs. 375/- as per the notification issued by the Government of West Bengal and per month Rs. 9,760/-.

11. Considering the above, the award passed by the learned Motor Accident Claims Tribunal, 2nd Fast Track Court, Jalpaiguri dated November 29, 2023 is

modified only to the effect that the monthly income of the deceased is to be assessed as Rs. 9,760/-. Thus, the notional income should be Rs. 9,760/- * 12 = 1,17,120/-. Accordingly, the compensation of the appellant is to be read as follows:

1.	Monthly Income of deceased assessed as	Rs. 9,760/-
2.	Annual Income of the deceased	Rs. 9,760/- x 12= 1,17,120/-
3.	Adding 40% of Rs. 1,17,120/- as future prospect (Rs. 1,17,120/- +Rs. 46,848/-)=1,63,968/-	Rs. 46,848/-
4.	Less ½ as expenses of deceased if he ought to alive (where he was unmarried)	Rs. 1,63,968/- Rs. 81,984/-
	Rs. 81,984 x 18 (Multiplier) =	Rs. 14,75,712/-
5.	Adding General damages as per **Pranay Sethi**	
	i) For Funeral expenses	Rs. 15,000/-
	ii) For less of estate	Rs. 15,000/-
	General damages = Rs. 30,000/-	
	Now total income of deceased + general damages =	(Rs. 14,75,712/- + Rs. 30,000/-) = 15,05,712/-

12. The opposite party/Chola MS General Insurance Company Limited is directed to pay the said amount along with the interest at the rate of 9 per cent per annum from the date of application till the realization of the awarded amount.

13. With the above modification, **FMA 23 of 2025** is disposed of.

(Krishna Rao, J.)