IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Md. Shabbar Rashidi

F.M.A. 1012 of 2025

Soma Hazra & Ors.
Vs.
Sri Ram General Insurance Co. Ltd. & Anr.

For the Appellants	:	Mr. Ali Imam Shah
For the Respondent No. 1/Insurance Company	:	Mr. Rajesh Singh
For the Respondent No. 2	:	Mr. Agniswar Bhuniya
Heard on	:	23.09.2026
Judgment on	:	23.09.2026

MD. SHABBAR RASHIDI, J.:

1. The instant appeal at the behest of the claimants has been preferred assailing the impugned judgment and award dated 22nd November, 2024.

2. By the impugned judgment and award the Learned Tribunal allowed the MACC Case No. 14 of 2019 in its judgment and award dated 22nd November, 2024. The Learned Tribunal held as follows:

> *"The Petitioner no. 1 (wife) do get an award of Rs.4,00,000/- and Rs. 40,000/- as consortium i.e. Rs.4,40,000/- and petitioner nos2 and 3 will get Rs.2,00,000/- each. So, considering all aspects, I am of the view that the petitioners are entitled to get an interest @ 6% per annum on the aforesaid amount of compensation from the date of filing of the claim application i.e. 15.01.2019 till realization as per Section 171 of the Motor Vehicles Act. The O.P.-Insurance Company is liable to pay the compensation to the petitioners, as per observation, made above.*
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> *The O.P. No.2 Sriram General Insurance Company Limited is directed to issue one A/c Payee Cheques of Rs. 4,40,000/- in the name of the petitioners No.1 and two A/c payee cheques of Rs.2,00,000/- each in the name of the petitioner nos. 2 and 3 along with interest @ 6% per annum on the amount of the petitioners from the date of filing of the application i.e. on 15.01.2019 till the realization of the amount, through this Tribunal, within one month from the date of receipt of copy of this order, as per provision of Section 171 of the Motor Vehicles Act.*
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> *The petitioner No.1 is directed that on receipt of the Cheque and after encashment of the Cheque amount of the minor petitioner nos. 2 and 3, she will cause investment of the said sum of Rs. 2,00,000/- each in the name of the minor petitioner Nos.2 and 3 in Fixed Deposit Scheme in any nationalized Bank or Post Office, till the said minor children attain the age of majority. Thereafter, on receipt of the deposition of the said amount of the minor petitioners in any nationalized bank, she is at liberty to withdraw her own cheque.*
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> *This order will take effect after full payment of Deficit Court Fees, if there be any."*

3. It is submitted by the learned advocate for the appellants that while passing the impugned judgment and award the Learned Tribunal did not consider the extant provisions of law. Moreover, the impugned judgment and award

has not considered the evidence and documents adduced on behalf of the appellants.

4. The learned advocate for the appellants further submits that the Learned Tribunal erred in law in not considering the income of the deceased of Rs. 6,000/- per month as Sweeper of the Rampurhat Municipality at the time of accident.

5. The learned advocate for the appellants further submitted that the Learned Tribunal did not consider the future prospects in computing the amount of compensation to be awarded to the claimants. The Learned Tribunal ought to have taken into consideration the future prospects and the award should have been calculated on the basis of future prospects.

6. On the other hand learned advocate appearing for the Insurance Company/respondent has submitted that the impugned judgment and award passed by the Learned Tribunal is based on established principles of law and the same is liable to be affirmed.

7. Learned advocate appearing for the owner respondent also stands by the impugned judgment and award passed by the Learned Tribunal.

8. As it transpires from the materials on record that an accident took place on 23rd September, 2018 at about 6.45 p.m. at Rampurhat Suri Pucca Road in front of Ma Tara Hotel near Mollarpur Petrol Pump. The victim/deceased was travelling in an auto rickshaw towards Rampurhat from Mollarpur. At that time the offending vehicle bearing registration no. WB65B-3277 which was proceeding towards Suri from Rampurhat and was being driven in a rash and negligent manner, dashed into the auto rickshaw in which the

victim was travelling. As a result of such accident the deceased alongwith other passengers received serious bleeding injuries. Injured persons were shifted to the SD Hospital Rampurhat. Upon examination, the doctor declared the victim "brought dead". It was further stated that the accident took place due to rash and negligent driving by the driver of the offending vehicle. A criminal case was also started over the incident.

9. Subsequently the claimant wife for herself and on behalf of two minor children lodged a motor accident claim case being MACC No. 14 of 2019. The Insurance Company entered appearance in such case and contested the claim application. The owner/opposite party in the claim case although appeared in the case but subsequently did not pursue the same. The Insurance Company filed a written statement in such claim case.

10. On the basis of the pleading put in by the parties, the Learned Tribunal framed as many as five issues for disposal of the claim case which are as follows:

> *"**ISSUES** :*
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> *1) Is the claim application maintainable in its present form ?*
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> *2) Has the victim died out of motor accident caused by a truck bearing registration no WB-65-3277 out of rash and negligent driving on 23/8/2016 on Rampurhat – Suri pucca road?*
>
> *3) Is the OP/owner and the op /insurer liable to pay compensation to the petitioners ?*
>
> *4) Are the petitioners entitled to the compensation as prayed for ?*
>
> *5) To what other relief / reliefs, if any, the petitioners are entitled to?"*

11. At the time of hearing of the instant appeal, the only point that has been canvassed by the appellants is that the Learned Tribunal did not consider the future prospects while computing the quantum of compensation to be paid by the Insurance Company to the claimants. Such issue was considered by the Learned Tribunal while discussing issue no. 4 and 5 in the impugned judgment and award and noted to the following:

> *"In this case, the claimants claim that the deceased was a contractual sweeper. So, in this case, in absence of any cogent and reliable documentary or oral witness, Notional Income to the tune of Rs.5,000/- per month is to be taken into consideration. Therefore, it appears that the total income of the victim should have been calculated at Rs. 5,000/- per month. The annual income of the deceased was Rs.60,000/-. The total deduction of personal expenses should have been 1/3rd of Rs.60,000/- X1/3 = Rs.20,000/-. Now, the amount comes to Rs. 60,000/- - Rs.20,000/- = Rs.40,000/- per annum. In this case, the multiplier is 18. So, in this case, total loss of dependency comes to Rs. 40,000 X 18 = Rs. 7,20,000/-. A sum of Rs. 15,000/- is also to be added here towards funeral expenses and Rs.50,000/- is also to be added towards mental pain and agony and loss of estate of Rs. 15,000/-. Therefore, the total amount of compensation comes to Rs. 7,20,000 + Rs. 15,000/- + Rs.50,000/- + Rs.15,000/- = Rs.8,00,000/-. The petitioner No. 1 i.e. the wife of the deceased is also entitled to get consortium amounting to Rs.40,000/-.*
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> *The Petitioner no. 1 (wife) do get an award of Rs.4,00,000/- and Rs.40,000/- as consortium i.e. Rs.4,40,000/- and petitioner nos2 and 3 will get Rs.2,00,000/- each. So, considering all aspects, I am of the view that the petitioners are entitled to get an interest @ 6% per annum on the aforesaid amount of compensation from the date of filing of the claim application i.e. 15.01.2019 till realization as per Section 171 of the Motor Vehicles Act. The O.P.-Insurance Company is liable to pay the compensation to the petitioners, as per observation, made above."*

12. At the time of hearing of the instant appeal, the learned advocate for the appellants relied upon a unreported decision of the Hon'ble Supreme Court of India in ***Civil Appeal No. 8179 of 2022*** arising out of ***Special Leave***

Petition (C) No. 30754 of 2019 in ***Rajwati @ Rajjo & Ors. –Vs.- United India Insurance Company Ltd. & Ors.***

13. So far as the computation of the claim by the Learned Tribunal is concerned, it transpires that the Learned Tribunal held notional income of the deceased to be Rs. 5,000/- per month which was calculated to be Rs. 60,000/- per annum. After deducting the 1/3rd income towards his own expenses Rs. 40,000/- per annum was considered for the purpose of computing the compensation amount. Loss of dependency was calculated at Rs. 7,20,000/-. Alongwith that a sum of Rs. 15,000/- was added towards funeral expenses and Rs. 50,000/- towards mental pain and agony and Rs. 15,000/- loss of estate by said computation. The Learned Tribunal awarded a sum of Rs. 40,000/- towards a consortium totaling Rs. 8,40,000/-.

14. In ***Rajwati @ Rajjo*** (supra) the Hon'ble Supreme Court of India held to the following:

> *"30. As far as the age of the deceased is concerned, the view of the Tribunal in ascertaining the same as 38 years on the basis of the driving licence of the deceased (Exhibit A2) was correct, and the same is hereby affirmed. However, the award of future prospects at 40% needs to be interfered with. In view of the law laid down by a five-Judge Bench of this Court in* ***Pranay Sethi (Supra)****, we are inclined to assess the future prospects of the deceased, considering his age, at 50% of his annual income (Rs.1,34,700/-), which works out to be Rs.67,350/-. Therefore, annual income accounting for future prospects is Rs.1,34,700/- + Rs.67,350/- = Rs.2,02,050/-. In view of* ***Sarla Verma (Supra)****, 1/4th of the said amount would be deducted towards the deceased's personal expenses as he was married and had 4 dependents. Hence, 1/4th of Rs.2,02,050/- is Rs.50,512.5/-, Rs.2,02,050/- - Rs.50,512.5/- = Rs.1,51,537.5/-. Accordingly, after applying the multiplier of 15 (as the deceased was aged between 36 to 40 years), the loss of dependency would be assessed at, Rs.1,51,537.5/- x 15 = Rs.22,73,062.5/."*

15. Applying the ratio laid down in ***Rajwati @ Rajjo*** (supra) which had noted ***Pranay Sethi*** and ***Sarla Verma*** and the compensation should have been added with 40% towards future prospects of the deceased. Therefore, applying the ratio laid down in ***Rajwati @ Rajjo*** (supra) the amount awarded by the Learned Tribunal in the impugned judgment and award reworked to the following:

Monthly Income	Rs. 5000/-
Annual Income	Rs. 60,000/-
Future Prospect to be added(40%)	Rs. 24,000/-
	Rs. 84,000/-
1/3rd for Personal Expenses	-Rs. 28,000/-
	Rs. 56,000/-
Multiplier to be “17”	X 17
	Rs. 9,52,000/-
General Damages	+Rs. 84,000/-
	Rs. 10,36,000/-
Awarded by Tribunal	-Rs. 8,40,000/-
	Rs. 1,96,000/-
Enhancement	+ 6% per annum from the date of filing of claim case.

16. Added 40% towards the future prospects the total amount of compensation on the basis of materials placed and proved before the Learned Tribunal comes to Rs. 10,36,000/-. The Insurance Company has already paid a sum of Rs. 8,40,000/- to the claimants in satisfaction of the award which has duly been received by the claimants.

17. In view of the instant judgment and order, the Insurance Company shall pay the additional amount of Rs. 1,96,000/- with interest calculated at the rate

of 6% per annum from the date of filing of the application till the date of the order by an A/c payee cheque in favour of the Learned Registrar General, High Court, Calcutta within four weeks from the date of communication of this order. The Learned Registrar General, High Court, Calcutta shall disburse the said amount in the ratio as mentioned in the impugned judgment and award to all the claimants upon proper identification and verification exercising necessary formalities as expeditiously as possible.

18. With such observation the instant appeal being **F.M.A. No. 1012 of 2025** stands disposed of.

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

(MD. SHABBAR RASHIDI, J.)

B.K.N.
A.R. (Court)