4th December, 2020

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(2)

FMAT 476 of 2020
With
IA NO.: CAN 1 of 2020

(Via Video Conference)

The Oriental Insurance Company Limited
-Vs-
Asaratan Bibi & Anr.

Mrs. Sucharita Paul
... For the Appellant.

Mr. Subhankar Mandal
...For the Claimant.

This appeal arises from an order dated 30th July, 2020 passed in a Motor Vehicle Accident claim case by which the claimant (the respondent herein) was awarded a total of Rs. 74,91,424/- + Rs. 10,00,000/- on account of medical expenses, Rs. 20,000/- on account of funeral expenses which is equal to Rs. 85,11,424/-.

The amount also included a default clause by which the petitioner would be entitled to interest at 9% per annum on the said amount from the date of filing of the claim till realization. The victim was 24 years old when he died in a motor accident on 19th February, 2018. The claimant is the mother of the victim. The appellant is the Insurance Company who contested the claim in the Tribunal.

Learned counsel appearing for the appellant Insurance Company submits that the amount awarded is liable to be set aside since the medical bills should have been Rs.4,93,185/- instead of Rs. 10 lacs as awarded by the Tribunal. The corrected amount would appear from the bills and vouchers produced by the claimant. It is also submitted that the 9% interest awarded by the Tribunal in case of default should be revised. Counsel also submits that since the victim was 24 years old at the time of the accident, future prospects awarded on the income of the deceased victim should have been 40% and not 50% as awarded.

Counsel hands up a sheet indicating the revised calculations on the basis by which a total of Rs. 60,75,654/- should have been awarded to the claimant together with an acceptable rate of interest.

Learned counsel for the respondent/claimant submits that the amounts awarded under the various heads should be corrected and agrees to the revised calculation submitted on behalf of the Insurance Company.

In view of the above, this court is inclined to dispose of the appeal by directing the appellant/Insurance Company to credit an amount of Rs. 60, 75, 654/- to the bank account of the claimant within four weeks from the date on which the claimant provides the particulars of the bank account to the Insurance Company.

The petitioner/appellant will pay the amount within the stipulated time together with interest at the rate of 8% per annum from the date of filing of the claim case till the date of realization of the amount.

The petitioner will be at liberty to withdraw the deposit of Rs. 25,000/- made with the Registrar of this court one day after the amount is paid to the claimant as directed by this order. The petitioner will also be entitled to any interest which is accrued to the said sum of money till the date on which it is withdraw.

F.M.A.T 476 of 2020 together with connected application CAN 1 of 2020 is disposed of in terms of this order.

(Moushumi Bhattacharya, J.)