

(Via Video Conference)

F.M.A. 66 of 2012

The National Insurance Co. Ltd.

Vs.

Jakir Hossen @ Jakir Hossen Khondakar

Mr. Parimal Kumar Pahari

...For the Appellant/
Insurance Co.

Mr. Amit Ranjan Roy

...For the Respondent/
Claimant

The instant appeal has been filed by the appellant Insurance Company against the order dated 23rd December, 2010 passed by the Judge, Motor Accident Claims Tribunal, Second Court, Howrah, in M.A.C. Case No. 27 of 2002 on application under Section 166 of the Motor Vehicles Act, 1988.

The fact of the case is that one Jakir Hossen received severe injuries on his person in motor vehicle accident which took place on 18th March, 2006.

The appellant Insurance Company contested the said claim case but did not adduce any evidence in respect of pleadings made in the written statement. The claimant adduced evidence and was able to prove his case of 70% disability. The Disablement Certificate exhibited and marked as Exhibit 5, has been issued by the Medical Board.

Mr. Pahari, learned advocate for the appellant/Insurance company submitted that 'all the injuries do not result in loss of earning capacity and the percentage of loss of earning capacity cannot be equated with the percentage of permanent disability'.

Mr. Pahari also submitted that the entire award, passed by the tribunal, has already been deposited before this Court.

Mr. Amit Ranjan Roy, learned advocate, appearing on behalf of the respondent/claimant strenuously argued that the claimant suffered 70% loss of earning capacity and supported the judgment of the court below. He also submitted that in view of the order dated 4th September, 2013 the claimant withdrew a sum of Rs.2,50,000/- from this Hon'ble High Court.

I have heard advocates for the parties. In my view, in absence of any specific evidence, the finding of the tribunal should not be interfered with. Accordingly, the appeal is dismissed.

In light of the above observation, this Court is granting liberty to the respondent/claimant to withdraw the awarded amount as deposited by the appellant/Insurance company before the learned Registrar General of this Court.

The learned Registrar General is hereby directed to release the balance amount along with accrued interest thereon, if any, directly to the bank account of the

respondent/claimant, within four weeks from the date of submission of the particulars of the bank account.

Learned advocate for the respondent/claimant shall submit the particulars of the bank account of his client before the learned Registrar General of this Court within 15 days from date.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Shekhar B. Saraf, J.)