

01.09.2021

SS

F.M.A. 573 of 2018

(Via Video Conference)

Subhadip Tah

Vs.

National Insurance Co. Ltd. & ors.

Mr. Ali Imam Shah

Sk. Abbas Uddin

...For the Appellant/claimant

Mr. Deb Narayan Ray

**... For the respondent No.1/
National Insurance Co.**

Mr. Parimal Kumar Pahari

**.... For the respondent No.2/
The Oriental Insurance Co. Ltd.**

The appeal is directed against the judgment and/or award dated 14.12.2016 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Bardhaman, in MAC Case No. 52/55 of 2013, on a claim under Section 166 of the Motor Vehicles Act, 1988 for injury of one Subhadip Tah, the claimant herein, who was injured in a Motor Vehicle accident occurred on 8.8.2012.

The claim was filed under Section 166 of the Motor Vehicles Act.

Learned Advocate for the appellant/claimant submits that the learned Tribunal committed error in law while assessing the monthly income of the injured person/claimant as Rs.3,500/- instead of Rs.4,000/-.

Learned Advocate for the appellant/claimant further submits that the learned Tribunal committed

error in law while not granting 40% additional income towards future prospect since the injured person, Subhadip Tah, was 20 years old and he was 2nd year B.A.(Hons) student working as self employed person. He got 50% Disability Certificate from Burdwan Medical College as evidence of P.W.3, Dr. Akhilesh Kumar.

In reply, Mr. Deb Narayan Ray, learned Advocate for the respondent no.1/National Insurance Company submits that the award passed by the learned Tribunal is absolutely just and there is no scope of interference and/or modification of the award.

Considering the judgements of **Smt. Sarala Verma & Ors. -Vs.- Delhi Transport Corporation & Anr.**, reported in **(2009) 6 SCC 121, National Insurance Company Limited -Vs.- Pranay Sethi & Ors.**, reported in **(2017) 16 SCC 680** and **Syed Sadiq Vs. Divisional Manager, United India Insurance**, reported in **2014(1) T.A.C. 396 (S.C.)**, I find substance on the submission of the appellants. Since the accident occurred in the year 2012, in a claim under Section 166 of the Motor Vehicles Act 1988, an amount of Rs.4,000/- per month does not appear to be exorbitant. The appellant is entitled to get 40% additional amount towards future prospect of the deceased.

Accordingly, the impugned award is required to be modified in the following manner :

<u>Particulars</u>	<u>Amount</u>
Monthly income	Rs.4,000/-
Yearly income (X12)	Rs.48,000/-
40% additional income towards future prospect	Rs.19,200/-
Total annual income (48,000+19,200)	Rs.67,200/-
Deduction 50% (as per Disability Certificate)	Rs.33,600/-
Multiplier 18 (33,600 X 18)	Rs.6,04,800/-
Medical expenditure	Rs. 80,000/-
Pain & suffering (taken by Ld. Tribunal)	Rs.30,000/-
Total compensation	Rs.7,14,800/-

Mr. Ali Imam Shah, learned Counsel appearing on behalf of the appellant/claimant acknowledges that his client has already received the awarded amount of Rs.4,46,000/-. According to him, the balance enhanced sum of Rs.2,68,800/- would become payable to the appellant by both the Insurance Companies together with interest @ 6% per annum on and from the date of filing the claim application till payment according to the award of the learned Tribunal, that is, National Insurance Company, being the respondent no.1 is liable to pay 80%,that is, Rs.2,15,040/- together with interest @ 6% per annum from the date of filing the claim application till payment and the Oriental Insurance Company is liable to pay 20%, that is, Rs.53,760/- together with interest @ 6% per annum from the date of filing the claim application till

payment within a period of 45 days from the date of receipt of the bank account particulars of the appellant.

It is made clear that all the payments shall be made through NEFT/RTGS to the bank accounts of the appellant/claimant and for such purpose the learned Advocate for the appellant/claimant shall furnish bank accounts particulars of the appellant/claimant to the learned advocates for both the Insurance Companies within two weeks.

With the aforesaid directions, the instant appeal is disposed of. There shall be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of.

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.)