

Ct. 09.11
No. 26 2021
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F.M.A. 260 of 2012
Md. Giasuddin
Vs.
National Insurance Co. Ltd. & Anr.

Ms. Sima Ghosh ...For the Appellant/Claimant

Mr. Arabinda Kundu ...For the Respondent/Insurance Co.

This appeal is directed against the judgment and order dated January 15, 2011 passed by the learned Judge Motor Accident Claims Tribunal, 1st Court, Suri Birbhum in M.A.C. Case No. 178 of 2007 on a claim under Section 166 of the Motor Vehicles Act, 1988 for severe injury of the appellant Md. Giasuddin (who was a Professor by profession) in a road accident dated December 03, 2005.

Various points have been raised by the appellant/claimant in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant that due to accident/disability he has not claim monthly/future income because of, he has received salary from his service but the learned Tribunal committed error in law while assessing the disability was to the extent of 75%. However, victim also entitled future medical expenses, compensation due to pain and suffering, loss of amenities and enjoyment of life, compensation for living cost and artificial limbs etc. relying the decision 2012(1) TAC 1 SC (*Govind Yadav Vs. New India Insurance Company Limited*).

In reply, Mr. Arabinda Kundu, learned Counsel appearing for the respondent/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.

However, following the precedence of this Court on point of non-pecuniary damages, in a claim under Section 166 of the Motor Vehicles Act, 1988, the impugned award is modified and recalculated in the manner referred hereinafter.

Total Medical Expenses	Rs. 1,96,006/-
Future Medical Expenses	Rs. 50,000/-
Compensation due to pain and suffering	Rs. 50,000/-
Loss of amenities and enjoyment of life	Rs. 50,000/-
Compensation for living cost and Artificial limbs	<u>Rs. 50,000/-</u>
Total	Rs. 3,96,000/-

The award shall carry interest at the rate of 6% per annum as per Motor Vehicles Act, 1988 on and from the date of filing the claim petition to till actual satisfied the award money.

The claimant acknowledges receipt of awarded amount of Rs.1,50,000/- without interest. Accordingly, the Insurance Company calculates the interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition to till actual satisfaction of the Tribunal Awarded amount. The balance enhanced sum of Rs.3,96,000/- - Rs.1,50,000/- = Rs.2,46,000/- would become payable to the appellant by the insurance company together with interest accrued at the rate of 6 percent per annum on and from the date of filing of the claim petition to actual payment. Claimant also is entitled to interest @ 6% per annum from Tribunal Awarded amount Rs.1,50,000/- from the date of claim petition to actual satisfaction of the amount within a period of 45 days from the date of receipt of the bank particulars of the appellant. Learned Advocate for the

appellant will forward the bank account in details of the appellant within a fortnight from date to the learned Advocate. Advocate for the insurance company. Advocate for the insurance company. The payment shall be made in the proportion decided by the court below.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of this appeal, connected applications, if any, are also disposed of. The concerned Department is directed to tag the applications, if any, with the main appeal.

There shall be no further 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.*)