Ct. No. 26

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F.M.A. 1224 of 2008

With

IA No. CAN 1/ 2011 (Old No. CAN 3895 of 2011)

With

IA No. CAN 2/ 2011 (Old No. CAN 3906 of 2011)

(Via Video Conference)

Bura Ghorai @ Makr @ Sunil Ghorai

Vs.

The New India Assurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy ...For the Appellant/Claimant

Mr. Rajdeep Bhattacharya ...For the Respondent/Insurance Co.

The claimant in the instant appeal, complaining of the inadequate compensation granted by the learned Tribunal in its judgement and award dated 21st February 2007 passed by the learned Additional District Judge, 1st Fast Track Court, Motor Accident Claims Tribunal, Paschim Medinipur in Motor Accident Claim Case No. 187 of 2005.

Learned Counsel for the appellant submits that the instant claim application has been filed thereby praying compensation for the injury suffered in the accident. The appellant was a rickshaw puller and he suffered the accident at the age of 22 years. Counsel for the appellant states that the learned Tribunal erroneously held Rs.1,800/- per month as income of the appellant. He further states that for some time, it has been the practice of this Hon'ble Court to take the basic income upto the year 2010 as Rs.3,000/- per month and from the year 2011 to 2014, it would be Rs.4,000/- and from the year 2015 onwards it would be Rs.5,000/-. Since unskilled workers were capable to earn such amount per month when working most of the days. The appellant further points out that the claimant is also entitled to 40% on account of future prospects and reasonable amount on account of non-pecuniary damages. However, the learned Tribunal erred in not allowing the same.

The Insurance Company is represented and contested by Mr. Rajdeep Bhattacharya, learned Counsel.

After having the heard learned Counsel appearing on behalf of the parties, I am of the opinion, the impugned award is modified and the claimant is found entitled to a total amount of Rs.4,78,400/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the receipt of payment as indicated more fully hereafter.

The gross income of the victim appears to have been Rs.36,000/- per annum. On such amount 40% is added on account of future prospect, thus, taking the amount to Rs.50,400/-. Since the learned Tribunal held 50% permanent disability, accordingly, the amount comes to Rs.25,200/- (i.e. 50% on Rs50,400/-). Now after applying the multiplier of 17 as per schedule the total amount comes to Rs.4,28,400/-. Upon adding Rs.50,000/- on account of non pecuniary damages, the gross amount comes to Rs.4,78,400/- together with interest at the rate of 6% per annum as indicated above.

The claimant states that the learned Tribunal has awarded a sum of Rs.1,30,000/-. The claimant acknowledge receipt of a sum of Rs.1,30,000/- amount without interest. The balance sum of Rs.3,48,400 would become payable to the appellant together with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank account particulars of the appellant. Insurance Company is also directed to pay 6% interest on the awarded amount, if not already disbursed, to be calculated on and from the date of lodging the claim till the date of payment.

Learned Counsel for the appellant will forward the bank account details of the appellant within a fortnight from date to the learned Counsel for the Insurance Company. The payment shall be made in the same manner and proportion as decided by the Court below.

The Insurance Company is granted liberty to realize the total amount from the owner as per law.

With the aforesaid directions the instant appeal is disposed of. In view of disposal of the appeal, all connected applications, if any, are also disposed of.

There shall be no further order as to costs.

LCR, if any, may be returned back to the Court below.

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.)