

S/L 4
19.7.2021
Court No.26
SD

FMA 435 of 2010
With
CAN 2 of 2012
(Old CAN 5420 of 2012)
(Application is not in the file)
(Via Video Conference)

Ranjit Sasmal
Vs.
The Oriental Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

...for the Appellant/Claimant.

Mr. Parimal Kumar Pahari

...for the Respondents/Insurance Co.

This appeal has been filed against the judgment and award dated May 20, 2009 passed by the Additional District and Session Judge, Fast Track, 3rd Court, Tamluk, Purba Medinipur in MAC Case No.74 of 2007 / 312 of 2006, on a claim under Section 163A of the Motor Vehicles Act, 1988 in respect of the accident that took place on 18th May, 2006.

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 poor businessman and is suffering the accident at the age of 29 years. The appellant submits that he used to earn Rs.3200/- per month but did not adduce any evidence in such support, the Tribunal assessed the compensation on the basis of notional income of Rs.15,000/- per annum.

Mr. Parimal Kumar Pahari, counsel appearing on behalf of the respondent/Insurance Company opposed the submission of Mr. Roy and insists the Court not to interfere with the award under challenge.

Mr. Roy further submits that the appellant due to the accident received severe injuries and some of the occasions

were admitted in several hospitals for better treatment. Appellant appeared before the Medical Board for assessment of disability. The Medical Board issued disability certificate (Ext-4) and considered the appellant as 50% disabled person. The Tribunal considered the appellant to that extent.

Heard the submissions of the parties.

The substance of submission of Mr. Roy is that the Tribunal did not properly assess the monthly income of the appellant and it can be considered as Rs.3000/- per month at least under Section 163A of the Act 1988.

After the submission made by the respective parties, I am of the view that the monthly income of Rs.3000/- per month would be just, for the assessment of just compensation in the present case. Accordingly, I reassess the compensation in the following manner after considering the disablement certificate to the extent of 50% disability.

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly income	3,000.00
Yearly income (x 12)	36,000.00
Age 29 Multiplier 18	<u>(x) 18</u> 6,48,000.00
50% disablement	3,24,000.00
After adding Rs.5000/- For pain and suffering	3,29,000.00
Tribunal awarded	1,40,000.00
Compensation payable (329000-140000)	1,89,000.00

In light of the above observation, the impugned judgment and award is thus modified and claimant is found entitled to get total sum of Rs.1,89,000/- together with

interest thereon at the rate of 6% per annum on and from the date of filing the claim application till the date of payment.

The appellant acknowledge receipt of the entire awarded amount of Rs.1,40,000/- along with interest from the Tribunal. The balance sum of Rs.1,89,000/- would become payable to the appellant together with interest assessed at the rate of 6% per annum from the date of filing of the claim application till payment.

Counsel for the appellant would forward the bank account details within fortnight from date to the counsel for the Insurance Company.

The insurance company is directed to pay Rs.1,89,000/- together with interest @ 6% per annum on and from the date filing of the claim application till the date of payment to the appellant's bank account within period of six weeks from the date of receipt of bank details peremptorily.

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.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)