

Ct. 13.8
No. 2021
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F.M.A. 406 of 2008
Oriental Insurance Co. Ltd.
Vs.
Smt. Indrani Podya & Ors/
(Via Video Conference)

Mr. Sanjay Paul **...For the Appellant/Insurance Co.**
Mr. Amit Ranjan Roy **...For the Respondents/Claimants**

The instant appeal is at the instance of the Insurance Company and the same has been preferred against the judgment and award dated 9th August, 2007 passed by the learned Motor Accident Claims Tribunal, 4th Court Paschim Medinipur, in M.A.C. Case No. 36 of 2006.

Mr. Sanjay Paul, learned Counsel appearing on behalf of the appellant/Insurance Company submits various points in the instant appeal based on quantum of compensation as awarded by the Tribunal. He submits that at the time of accident the deceased was riding a motor cycle which had no registration number as well as no insurance policy rather the victim did not possess any valid driving license, therefore, the deceased also contributed negligence against such accident. Mr. Paul further submits that the learned Tribunal committed error in law while deducted 1/3rd instead of 50% towards personal expenses.

Per contra. Mr. Amit Ranjan Roy, learned Counsel appearing on behalf of the claimants/respondents submits that the F.I.R. lodged against the driver of the offending/insured vehicle, accordingly, after investigation, police issued charge-sheet against the driver of said offending vehicle. In fact the claimants produced an eyewitness, Pw-2, who deposed before the Tribunal that due to rash and negligent driving, the accident took place. No

contra evidence as adduced by the Insurance Company to discard the said evidence. Therefore, the learned Tribunal was just while not holding the contributory negligence on the part of the deceased.

Heard learned Counsel appearing on behalf of the parties and perused the materials placed on record. I, therefore, do not find any error in the award passed by the Tribunal and the instant appeal does not bear any merit. Since the claimants did not file any cross-objection, I am also not inclined to enhance the awarded sum as decided by the Tribunal.

In the light of the above observation, appeal is disposed of.

Mr. Paul further submits that in compliance with the order dated 29.02.2008 passed by this Hon'ble Court, the entire awarded sum has been deposited with the learned Registrar General of this Court and the said sum has been invested and renewed time to time.

In the light of above submissions, liberty is granted to the claimants/respondents to apply before the learned Registrar General of this Court for withdrawal of the awarded amount together with accrued interest thereon and upon such application for withdrawal is made, Registrar General shall transmit the entire awarded amount along with accrued interest thereon, if any, directly to the bank account of the claimants/respondents in the same manner and proportion as decided by the Tribunal as expeditiously as possible preferably within 4 weeks from the date of receipt of the bank accounts details.

Learned Counsel for the claimants/respondents will forward bank account details of the claimants within a fortnight from date to the learned Counsel for the Insurance Company.

With the aforesaid directions the instant appeal is disposed of.

There shall be no further order as to costs.

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.)