

41 08.01.2021
AN Ct. No. 13

FMA 1435 of 2015
with
CAN 1 of 2019 (CAN 7908 of 2019)

Sutapa Hore @ Hare & anr.
-vs.-
The Oriental Insurance Co. Ltd. & anr.

Mr. Subir Banerjee
Ms. Ruxmini Basu Roy
... for the appellant

Mr. Saswata Bhattacharya
... for the Insurance Co.

The instant appeal has been filed against the judgment and award dated 12.08.2014 passed by the Motor Accident Claim Case, Fast Track Court I at Raiganj, Uttar Dinajpur in MACC case No. 128 of 2013 under Section 166 of the Motor Vehicles Act, 1988.

The facts of the case are not in dispute by the parties and set out in the judgment of the learned court below. The same are not set out here once again.

The principal ground urged by the appellant is that the victim was a photographer and he claimed Rs. 9000/- p.m. as income but the learned Tribunal awarded only Rs. 3000/-.

It appears from the record that there is no evidence brought on record by the appellants as regards the income of the victim.

However, since the death occurred in the year 2013 in terms of the practice of this court, the income of the deceased is assessed at Rs. 4000/- p.m.

It further appears that the learned court below has not applied the correct percentage towards future prospects and general damages in terms of the decision of the case of ***National Insurance Company Ltd. vs. Pranay Sethi & Ors. reported in (2017) 16 SCC 680.***

In such circumstances, the compensation payable to the appellant is re-assessed and recalculated as follows:

Compensation amount of Sutapa Hore @ Hare & anr.:

Monthly Income	:	Rs. 4000.00
Add:		
Future Prospect		<u>Rs. 400.00</u>
		Rs. 4400.00
Less : Deduction of 1/3 rd		Rs. <u>1467.00</u>
		<u>Rs. 2733.00</u>
Multiplied by 12 months	:	<u>(x) 12</u>
Yearly Income		Rs. 32,796.00
Multiplier	:	<u>(x) 11</u>
		Rs. 3,60,756.00
Additional General Damages :		<u>(+) 70,000.00</u>
Award of learned Tribunal	:	<u>Rs. 4,30,756.00</u>
Received	:	<u>Rs. 2,71,000.00</u>
Balance to be paid (Principal)	:	<u>Rs. 1,59,756.00</u>

The total sum payable comes to Rs. 4,30,756/-.
The said sum of Rs. 4,30,756/- shall carry interest @ 7% p.a. from the date of filing of the claim petition.

The appellant has already received a sum of

Rs. 2,71,000/-. The appellant shall be entitled to receive the balance sum of Rs. 1,59,756/- together with 7% interest on and from the date of filing of the claim petition i.e. 21.11.2013.

The claimants shall also be entitled to receive interest @ 7% p.a. on the sum of Rs. 2,71,000/- award amount already received by her on and from 21.11.2013 till the date on which the amount was deposited by the insurance company in the learned court below.

The payment shall be made by the insurance company within 45 days of the receipt of the particulars of the bank accounts of the appellants upon particulars being supplied by the learned counsel for the claimants to the learned counsel for the insurance company.

The payment shall be made only in the bank account of the claimants in the proportion ordered by the learned Tribunal.

With the above observations, the instant appeal is **disposed of**.

In view of the above, by consent of the parties, the application being CAN 7908 of 2019 is treated as on day's list and is disposed of.

There will be no order as to costs.

Lower court records, if any, may be sent back forthwith.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously

as possible on compliance of all necessary formalities.

(Rajasekhar Mantha, J.)