S/L 7
27.9.2021
Court No.26
SD

FMA 1347 of 2013
(Via Video Conference)

Abu Taher Sk. @ Abu Taher
Vs.
The 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 award dated August 31, 2012 passed by the learned Judge, 3rd Court, Motor Accident Claims Tribunal, Murshidabad in M.A.C. Case No.514 of 2009 on a claim under Section 163A of the Motor Vehicles Act, 1988 for severe injury of one 'Abu Taher Sk. @ Abu Taher' (42 years old) in a road accident dated 05.10.2009.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the Tribunal committed error in law while assessing annual income of the deceased as Rs.15,000/- instead of Rs.36,000/- i.e., Rs.3000/- per month. It is also submitted on behalf of the appellants that the Tribunal committed error in law and fact in not awarding just amount of compensation which should not have reduced 50% of the compensation amount to Rs.1,47,250/- relying upon a decision of this Hon'ble Court in the case of ***National Insurance Co. Ltd. vs. Swapan Kr. Dakua & Anr.*** reported in ***WBLR 2000 Cal 289***.

Ms. Ghosh further urged about interest part which has not been considered as per Motor Vehicles Act, 1988 from the date of filing the claim application to the date till the actual amount is satisfied.

In reply Mr. Kundu, counsel for the respondent/insurance company submits that the award passed by the Tribunal is absolutely just and there is no scope of interference and/or modification of the award. He further submits that the present case has been filed only in respect of insurer of one vehicle and the National Insurance Company is liable to pay ½ of the said amount and the Tribunal rightly assessed the compensation amount.

Considering the judgment of *National Insurance Co. Ltd. (supra)* and the precedence of this Court on the point of liability, the impugned award is thus modified and recalculated in the manner referred hereinafter:-

Particulars	Amount (Rs.)
Monthly Income	3,000.00
Annual Income (Rs.3000/- x 12)	36,000.00
Annual income to the extent 65% disablement	23,400.00
Multiplier (15)	3,51,000.00
General damages	5,000.00
Total	3,56,000.00

The claimant acknowledges receipt of awarded amount of Rs.73,625/- without interest. Accordingly, the insurance company is directed to calculate the interest @ 6% per annum on the awarded amount till the actual disbursement in favour of claimant and also the balance enhanced sum of Rs.2,82,375/- would become payable to the appellants by the insurance company together with interest assured at the rate of 6 % per annum on and from the date of receipt of the bank particulars of the appellants.

Counsel for the appellant will forward the bank account details of the appellant within a fortnight from date to the counsel 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.

There shall be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are 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.)