

S/L 6
13.9.2021
Court No.26
SD

FMAT 253 of 2020
(Via Video Conference)

Muni Sekh @ Mani Sk @ Moni Bibi @ Noni Sk
Vs.
The Oriental Insurance Co. Ltd. & Anr.

Mr. Muktakesh Das

...for the Appellant/Claimant.

Mr. P.K. Pahari

...for the Respondent/Insurance Co.

On the oral prayer of the counsel appearing on behalf of the appellant/claimant, the delay in filing the appeal is condoned. No serious objection has been raised by Mr. P.K. Pahari, counsel appearing on behalf of the insurance company.

This appeal is directed against the judgment and award dated June 15, 2019 passed by the learned Additional District Judge, 2nd Court, Motor Accident Claims Tribunal, Nadia at Krishnagar in M.A.C. Case No.361 of 2014 on a claim under Section 166 of the Motor Vehicles Act, 1988 for 80% permanent disability suffered by one 'Moni Sekh @ Mani Sk @ Moni Bibi @ Noni Sk.' in a road accident dated August 20, 2014.

Various points have been raised by the claimant in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant that her monthly income of Rs.3,000/- considered by the learned Judge was inadequate. It was also pleaded that the total grant of non-pecuniary compensation of Rs.50,000/- was insufficient in view of seriousness of injury. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

The insurance company is represented.

Considering the judgments of ***Smt. Sarala Verma & Ors. vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited vs. Pranay Sethi & Ors.*** reported in ***(2017) 16 SCC 680*** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellant. For the year 2014, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4000/- per month does not appear to be exorbitant. Appellant being a skilled weaver, is justified in praying for enhancement of non-pecuniary compensation for her incapacity to earn for the rest of her life and therefore, such compensation is enhanced from Rs.50,000/- to Rs.1,00,000/-. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

The income of the victim being Rs.4000/- per month, upon annualizing comes to Rs.48,000/-. The addition of 25% 'future prospect' brings it to Rs.60,000/-. Corresponding to the permanent disability, for her 80% loss of earning capacity, it is the amount of Rs.60,000/- on which the multiplier of 14 is applied to reach the net pecuniary compensation of Rs.6,72,000/-. On the said amount, claimant is also entitled to Rs.1,00,000/- on account of non-pecuniary compensation, taking the gross amount to Rs.7,72,000/-. I am not inclined to interfere with a sum of Rs.24,856/- granted by the court below under medical expenses and other heads. Therefore, the claimant is entitled to a total compensation of Rs.7,96,856/-.

The appellant also submits that they have received the awarded amount of Rs.5,46,856/- along with interest. Therefore, the balance enhanced sum of Rs.2,50,000/- would become payable to the appellant by the insurance

company along with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition till the date of actual realization.

The enhanced compensation together with interest as stated above is to be paid by the insurance company to the claimant within a period of 30 days of receipt of particulars of their bank accounts to be supplied by appellant's counsel to the counsel for the insurance company.

It is made clear the payments shall be made by NEFT/RTGS in the proportion as ordered by the court below with the aforesaid direction.

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.)