

03
21.12.2021
Ct. 21
AB

C.O. 731 of 2021
(Via Video Conference)

The National Insurance Company Limited
-Vs-
Smit Rina Deb & Ors.

Mr. Deb Narayan Ray,
... for the petitioner

Mr. Amit Ranjan Roy,
Mr. Suparno Ghosh,
... for the opposite parties/claimants

Assailing the order of rejection of review of the award dated 28.11.2019 by the Motor Accident Claim Tribunal, Fast Track, 1st Court, Asansol, the Insurance Company has filed this revisional application.

It is contended by learned Advocate for the petitioner, the Learned Court below while disposing a claim application under section 163 A of the M.V. Act, has done the calculation as if the claim was made under section 166 of M.V. Act. While awarding claim under section 163 A of the M.V. Act, the Court below is bound to calculate the compensation as per the chart given in the Schedule of the Act, but Learned Court below without adhering to the Schedule, done the calculation taking into consideration *future prospect* of

the victim which is not a part of the claim under section 163 A of the Act. That he has filed a review application before the learned court below for rectification of the award, but the same was rejected by passing the impugned order.

Learned Advocate for the claimants/ opposite parties submits that Learned Court below has committed mistake in calculating the compensation in a claim application under section 163 A of the M.V. Act. This Court has jurisdiction to hear the present application preferred against the order of rejection of review application and submits that present revisional application may be allowed.

Considering the nature of relief claimed by the Insurance Company by filing review application before the lower Court, it appears that it wants the lower Court to rewrite a new judgment altering the amount of compensation and pass a fresh award and which this court holds beyond the scope of review. The only remedy which is available to the Insurance Company is to prefer an appeal.

Therefore, considering such facts this court does not find any infirmity in the impugned order.

The revisional application stands thus dismissed any connected application too stands dismissed.

Interim order, if any, stands discharged.

In view of the order made above affidavits are not invited. Allegations made shall be deemed be denied.

Accordingly **C.O. 731 of 2021 is dismissed.**

There will be no order as to costs.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent Xerox certified photocopies of this judgment, if applied for be given to the parties upon compliance of the requisite formalities.

(**Kesang Doma Bhutia, J.**)

Later

The learned advocate for the petitioner prays that he may be permitted to withdraw the certified copies of the orders of the Court below filed in this revisional application.

The learned advocate for the petitioner is permitted to withdraw the certified copies of the orders of the Court below after annexing xerox copy of the same.

(**Kesang Doma Bhutia, J.**)