

16.09.2021

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F.M.A. 667 of 2021

(Via Video Conference)

Charubala Majumdar & ors.

Vs.

Oriental Insurance Co. Ltd. & anr.

Mr. Muktakesh Das

...For the Appellants/claimants

Mr. Rajesh Singh

**... For the respondent No.1/
Insurance Co.**

This appeal of claimants is directed against the judgement and award dated June 19, 2020 passed by the learned Judge, Motor Accident Claims Tribunal, 1st Court, Krishnagar, Nadia in MAC Case No. 388 of 2006 under Section 166 of the Motor Vehicles Act, 1988 praying for compensation for the death of one 52 years old 'Gouranga Majumdar', in a road accident dated February 14, 2005.

The appeal has been preferred by the claimants primarily on the ground that the learned Tribunal did not grant interest on the compensation amount from the date of filing of the claim application.

Learned Advocate representing the insurance company argues that the learned Court below used its discretion and gave reasons for granting interest only from 01.01.2015 and there is no further scope for altering such date or awarding interest from any other date.

The claimants acknowledge receipt of the entire awarded sum of Rs.4,29,370/- along with interest as

directed from 01.01.2015 till the date of actual realization of the same.

Hon'ble Supreme Court, in the case of **Abati Bezbaruah Vs. Deputy Director General Geological Survey of India & anr.**, reported in **2003(2) TAC 18 SC** held that interest can be granted even if claimant does not specifically plead for the same as it is consequential in the eyes of law. Interest is the compensation for forbearance or detention of money and that interest is awarded to a party only for being kept out of the money, which ought to have been paid to him.

In the appeal before me, claimants were deprived of interest for the reason that they caused substantial delay in the case. Learned Tribunal held that 52 years old deceased had left behind five numbers of dependent claimants. The assessment of compensation was made on the basis of deceased's income of Rs.3,300/- per month. Considering the financial background of the deceased and his family, the number of dependents left behind, the hardship faced by the said dependents when the head of the family and main bread earner dies, and also the discretionary power provided to the Court for granting of interest under Section 171 of the Motor Vehicles Act, 1988, I am of the view that in this case interest can be granted from the date of filing of claim application. However, in the facts and circumstances of

this case, the interest is awarded @ 5% per annum to the claimants.

Accordingly, the claimants/appellants would be entitled to get interest as directed above, on the awarded amount of Rs.4,29,370/- from the date of filing of claim application till 31.12.2014.

The insurance company shall calculate and pay the aforesaid sum within a period of 45 days from the date of receipt of the bank account particulars of the claimants. Learned Advocate for the claimants will forward the bank account details of the claimants within a fortnight from date to the learned Advocate for the insurance company.

It is made clear that payments shall be made by NEFT/RTGS in the proportion as ordered by the learned 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 application, if any, is also disposed of. The concerned Department is directed to tag the application, if any, with the main appeal.

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.)