02.07.2021
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F.M.A.T. 344 of 2021

(Via Video Conference)

Ramen Biswas
Vs.
Shriram General Insurance Co. Ltd. & anr.

Mr. Muktakesh Das
...For the Appellant/claimant

Mr. Rajesh Singh
... For the respondent No.1/Insurance Co.

It appears to this Court that there is error in the memo of appeal filed by the appellant/claimant. Leave is granted to the learned Counsel for the appellant/claimant to correct the date of impugned order and judgement passed by the learned Court below in the memo of appeal.

The appeal is directed against the judgment and order dated March 24, 2021 passed by learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court - IV, Krishnanagar, Nadia in M.A.C Case No. 184 of 2015, on a claim under section 166 of the Motor Vehicles Act, 1988 for the 75% permanent disability suffered by one 'Ramen Biswas' in a road accident dated July 15, 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 his 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.60,000/- was insufficient in view of seriousness of injury. Lastly, claimant urged that learned Tribunal erred in not granting the interest from the date of filing of claim application. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

The Insurance Company is represented.

Considering the judgements of **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.,** reported in **(2009) 6 SCC 121** and **National Insurance Company Ltd. 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.4,000/- per month does not appear to be exorbitant. Appellant being a Rickshaw puller, is justified in praying for enhancement of non-pecuniary compensation for his incapacity to earn for the rest of his life and therefore the such compensation is enhanced from Rs.60,000/- 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.4,000/- per month, upon annualizing, comes to Rs.48,000/-. The addition of 40% ‘future prospect’ brings it to Rs.67,200/-.

Corresponding to the permanent disability, for his 75% loss of earning capacity, it is the amount of Rs.50,400/- on which the multiplier of 17 is applied to reach the net pecuniary compensation of Rs.8,56,800/-. 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.9,56,800/-. I am not inclined to interfere with a sum of Rs.6,500/- granted by the court below under medical expenses and other heads. Therefore, the claimant is entitled to a total compensation of Rs.9,63,300/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The insurer does not dispute its liability of payment of compensation amount of Rs.7,09,100/- with interest, awarded from the date of appearance of the parties. It is however, well settled that the interest should be paid from the date of filing of claim application. Accordingly, the balance enhanced sum of Rs.2,54,300/- would become payable to the appellant by the insurance company. On the total compensation amount, claimant would also be entitled to 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 respective payments. The enhanced compensation together with interest as stated above, is to be paid by the insurer within a period of 45 days from the date of receipt of the bank account particulars of the appellant. Advocate for the appellant will forward the bank account details of the appellant within a fortnight from date to Advocate for the insurance company.

With the aforesaid directions the instant appeal is disposed of.

In view of the disposal of this appeal, connected applications, if any, are also disposed of. The concerned Department is directed to tag the applications, if any, with the main appeal.

There will be no order as to costs.

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.)