15.03.2021
rc/ct.no.10
Item No.82

FMAT No. 483 of 2016
with
CAN No. 1 of 2016 (Old No. CAN/5084/2016)

Mr. Ashique Mondal ...for the Appellants.

Mr. Sanjoy Paul ...for the respondent no. 1

In view of the good grounds shown by the appellant the delay of approximately 199 days in preferring this appeal is condoned and the appeal is taken up for hearing.

This appeal arises out of an award dated July 29, 2015 passed by the Additional District & Sessions cum Tribunal Judge, Motor Accident Claims Tribunal pertaining to an accident which took place in the year 2008. As a result of such accident there was an amputation of the right leg of the appellant and the appellant has been suffering since then. Additionally, the appellant cannot walk without the help of crutches.

Several grounds have been urged by the appellant including the fact that the Tribunal has erred in not awarding adequate compensation on the ground of future prospects, future medical expenses and non-pecuniary damages.

It is submitted on behalf of the appellant that the Tribunal has awarded an amount of Rs. 6,06,400/- along with interest without providing any amount on account future prospects, future medical expenses and non-pecuniary damages.

It is submitted on behalf of the appellant that in view of the decisions reported in (2017) 16 SCC, Page

680(National Insurance Company Limited Vs. Pranay Sethi) and Sarala Verma & Ors. Vs. Delhi State Transport Corporation & Anr. reported in (2009) 6 SCC, Page 121 future prospects ought to have been awarded @ 10% of the established income of the appellant.

Furthermore, the medical expenses which have been awarded under the impugned award are for a paltry and insufficient amount of Rs.20,000/-.

The appellant also contends that on account of physical pain and mental agony suffering an amount of Rs.10,000/- has been only awarded and there ought to have been a higher amount in the facts and circumstances of this case.

The respondent does not controvert the submissions made on behalf of the appellants.

I have heard the parties. I am of the view that the Tribunal while dealing with a motor accident claim has to take a rational and pragmatic approach. In respect of the contentions raised on behalf of the appellant I am of the view that the compenstion amount which has been awarded by the Tribunal should be enhanced.

By an earlier direction of the Court, I had directed the parties to arrive at an agreeable compensation figure.

The suggested calculation chart, as produced by the appellant and not objected to by the respondents, is hereinbelow:-

Annual Notional Income	=	Rs.36,000/-
Add: 10% future prospect	=	Rs. 3,600/-
Total Income with future prospect	=	Rs.39,600/-
Multiplier	=	Rs.4,35,600/-

Disability (90%)	=	Rs.3,92,040/-
Add: Medical Expenses	=	Rs.2,20,000/-
Add: Future Medical Expenses	=	Rs.1,00,000/-
Add: Pain and suffering	=	Rs. 50,000/-
Add: Loss of amenities of life	=	Rs. 50,000/-
Total	=	Rs.8,12,040/-

In view of the suggestion of the parties I direct that the Insurance Company pay an aggregate compensation of Rs. 8,12,040/- arrived upon by and between the parties. I direct that the aforesaid amount will carry interest @7% per anum from the date of filing the claim i.e. from April 27, 2008 till the date of realisation.

The insurance company will give due credit for an amount of Rs.6,06,400/- including interest already paid by a cheque dated 19.11.2015 to the appellant.

The insurance company will calculate the balance principal amount along with payment of interest and make the same directly to the bank account of the appellant i.e. PRANKRISHNA BANERJEE, Savings Bank Account No. 34484448925 with the State Bank of India, Kasba Branch (Branch Code 1486) within four weeks from date.

With the aforesaid directions the appeal being FMAT No. 483 of 2016 stands disposed of. Consequently, CAN No. 1 of 2016 (Old No. CAN/5084/2016) also stands also disposed of.

Liberty is granted to the insurance company to recover the aforesaid amount from the OP No. 1/ owner of the vehicle by filing an appropriate proceeding against the OP No. 1 in accordance with law.

(Ravi Krishan Kapur,J)