

S/L 16
04.8.2021
Court No.26
SD

FMAT 517 of 2016
(Via Video Conference)

Siddhartha Adhikary
Vs.
Khokan Nandi & Anr.

Mr. Muktakesh Das

...for the Appellant/Claimant.

Ms. Sucharita Paul

...for the Respondent/Insurance Co.

On 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 Ms. Sucharita Paul, counsel appearing on behalf of the Insurance Company.

The instant appeal has been filed by the claimant against the judgment and award dated November 11, 2014, passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, 5th Court, Nadia, in M.A.C. Case No.252 of 2007, on a claim under section 166 of the Motor Vehicles Act, 1988.

The appellant herein is a rickshaw puller who claims to have lost most of his efficacy due to the 50% permanent disability suffered by him as a result of the motor accident dated 25.08.2006. The claimant submits that the learned Court below had not granted an adequate amount of compensation on account of his 50% permanent disability, trauma, future medical expenses, loss of amenities, etc. due to the accidental injuries.

The Insurance Company is represented and opposes the case made out by the claimants.

For a considerable period of time from the case of ***R D Hattangadi Vs. Pest Control (India) (Pvt) Ltd,***

reported in **(1995) 1 SCC 551** and **Raj Kumar Vs. Ajay Kumar & Anr.**, reported in **(2011) 1 SCC 343**, non-pecuniary damages have been awarded on several grounds, including loss of future earnings; future medical expenses; trauma; loss of amenities, loss of expectation of life, etc.

The Hon'ble Supreme Court has time and again observed that "just compensation" should include all elements that place the victim in as near a position as she or he was in, before the accident. Though no amount of money can erase the trauma or the pain and suffering that a victim undergoes after a serious accident, monetary compensation is the manner known to law, which assures some measure of restitution to those who survive and have to face their lives.

It must be accepted that the appellant herein has suffered some permanent disability. Considering the arguments advanced by both the parties and also the extent of the permanent disablement that the appellant has suffered, this Court is of the view that he is entitled to a further consolidated principal amount of Rs.30,000/- towards future medical expenses; loss of amenities and loss of expectation of life.

Since the amount awarded by the tribunal has already been received by the claimant, it is only the additional amount of Rs. 30,000/- that the claimant is entitled to together with interest thereon at the rate of 6% per annum from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank account particular of the claimant. Advocate for the claimant will forward the bank account details of the claimant within a fortnight from date to the Advocate for the insurance company.

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.)