

Ct. No. 26
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F.M.A.T. 1044 of 2016
Antar Ali Sk.
Vs.
The Oriental Insurance Co. Ltd. & Anr.
(Via Video Conference)

Mr. Muktakesh Das **...For the Appellant/Claimant**

Ms. Sucharita Paul **...For the Respondent/Insurance Co.**

On the oral prayer of the learned Counsel appearing on behalf of the appellant/claimant, the delay of 120 days in filing the appeal is condoned. No serious objection has been raised by Ms. Sucharita Paul, learned Counsel appearing on behalf of the respondent/Insurance Company.

The appeal has been filed by the claimant against the judgment and award dated February 19, 2016 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, 5th Court, Nadia, in M.A.C. Case No. 137 of 2011.

The appellant herein was a 'khalasi' who claims to have lost most of his efficacy due to the 40% permanent disability suffered by him as a result of the motor accident dated February 07, 2011. The claimant submits that the learned Court below had not granted an adequate amount of compensation on account of his 40% permanent disability, trauma, future medical expenses, loss of amenities, etc. due to accidental injuries.

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

For a considerable period of time from the cases 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 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 in the manner known to law 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 principal amount awarded by the learned Tribunal has already been received by the claimant along with interest, 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 particulars of the claimant. Learned Counsel 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.

In view of disposal of the appeal, connected application, if any, is also disposed of. The concerned Department is directed to trace out the application and tag the same with this appeal.

There shall be no further 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.)