

Ct.
No.
26

7
akb

08.7
2021

F.M.A.T. 983 of 2015

With
IA No. CAN 1 of 2016 (Old No. CAN 3022 of 2016)
With
IA No. CAN 2 of 2016
(Via Video Conference)
Manjuhara Bibi Mir & Ors.
Vs.
Rafikul Alam Sk. & Anr.

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

Mr. Sanjay Paul
Ms. Gopa Das Mukherjee **...For the Respondent/Insurance Co.**

On the oral prayer of the learned Counsel appearing on behalf of the appellants/claimants, the delay in filing the appeal is condoned. No serious objection has been raised by Mr. Rajesh Singh, learned Counsel appearing on behalf of the respondents/Insurance Company.

The application for condonation of delay is disposed of.

This appeal is directed against the judgment and award dated October 31, 2014 passed by the learned District Judge, Motor Accident Claims Tribunal, Nadia at Krishnagar in M.A.C. Case No. 315 of 2012.

The appeal has been preferred by the claimants/appellants primarily on the ground that The learned Tribunal has erred in computing the amount of compensation. The accident took place on 12.06.2012 and the award has been passed on 31.10.2014. The claim was filed under Section 166 of the Motor Vehicles Act, 1988 and on the unfortunate death of the husband of the claimant Manjuhara Bibi Mir at the age of 35 years.

Mr. Muktakesh Das, learned Counsel appearing on behalf of the claimants/appellants argued that the learned

Tribunal has passed the impugned judgment and award beyond the law.

In turn Ms. Gopa Das Mukherjee, learned Counsel appearing for the respondent/Insurance Company submits that the award passed by the learned Tribunal is absolutely just and there is no scope of any further enhancement of the Award.

According to the learned Counsel for the claimants/appellants the future prospect of the deceased would be 40% of the then income of the deceased's which has been well settled by the Hon'ble Apex Court in the case of *National Insurance Company Limited –V- Pranay Sethi & Ors.*, reported in (2017) 16 S.C.C. 680.

Ms. Mukherjee, learned Counsel for the respondent/Insurance Company submits that the monthly income of the deceased may be taken as Rs.4,000/- as per general practice of this Hon'ble Court as against the claim of Rs.7,000/- by the claimants/appellants and the rate of interest may be taken as 6% per annum as per current rate of interest prevailing in the country.

Be that as it may, considering the rival submissions of the learned Counsel for the parties, as well as the decisions of the Hon'ble Apex Court and general practice of our Hon'ble High Court, above award passed by the learned Tribunal below is modified and recalculated as follows:-

Monthly income	Rs. 4,000/-
Less: 1/4 th	Rs. 3,000/-
Add:	
40% Additional income	Rs. 4,200/-

towards future prospect

Annual Income (x12)	Rs. 50,400/-
Multiplier (16)	Rs.8,06,400/-
Loss of consortium	Rs. 40,000/-
Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs.8,76,400/-
Received	Rs.4,28,000/-
Balance	Rs.4,48,400/-

The claimants/appellants acknowledge receipt of the entire awarded sum of Rs.4,28,000/- without any interest. Accordingly, the claimants/respondents are entitled to get 6% interest from the date of filing of the claim application till the date of deposit of the award before the learned Tribunal and the balance sum of Rs.4,48,400/- would become payable to the claimants/appellants together with interest assessed @ of 6% per annum on and from the date of filing in the claim petition within a period of 45 days from the date of receipt of the Bank Account particulars of the appellants which are to be supplied by their learned Counsels to the learned Counsel for the Insurance Company.

It is made clear that the payment shall be made by the Insurance Company through NEFT/RTGS in the respective account of the claimants/appellants directly in accordance to the proportionate share after expunging the name and share of compensation as indicated in the impugned judgment and award dated 31st Day of October, 2014 passed by the learned Tribunal, Nadia at Krishnagar in M.A.C. Case No. 315 of 2012.

The application, being No. CAN No. 2 of 2020

filed by the claimants/appellants with the prayer to expunge the name and share of compensation of claimant/appellant No. 6, namely Mir Iunum Ali son of Late Mokchhed Ali, who has died on 26.11.2019 is allowed with the direction that his share of compensation be distributed as indicated in the impugned judgement and award of the learned Tribunal.

With the aforesaid directions, the instant appeal along with the connected applications are disposed of.

The concerned Department is directed to tag the applications, if any, with the main 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.)
