13.08.2021
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(Via Video Conference)

F.M.A.T. 1392 of 2012

I.A. No. CAN 2 of 2019 (old no. 1608 of 2019)

Sunil Mandal
Vs.
The National Insurance Co. Ltd. & anr.

Mr. Subir Banerjee
...For the Appellant/claimant.

Mr. Arabinda Kundu
... for the respondents/Insurance Co.

The instant appeal filed by the claimant/appellant against the judgment and award dated May 30, 2012 passed by the Learned Judge, Motor Accident Claims Tribunal, 2nd Court, Jalpaiguri in M.A.C. Case No. 185 of 2008 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental injury of the claimant/appellant on 10.01.2008.

The Insurance Company is represented.

The facts of the case are not in dispute.

The learned Advocate for the appellant submits that the instant claim application has been filed thereby praying for compensation for the injury suffered by the claimant/appellant arising out of the use of the motor vehicle. The claimant/appellant was a carpenter at the time of accident and used to earn Rs.3,600/- from his employer. After the accident the claimant was admitted to the nursing home for six times and he was operated for six times. The medical board, after medical examination, issued the disablement certificate declaring that the appellant is disabled to an extent of 50 per cent.

It appears from the award that the learned Tribunal granted Rs.2,00,000/- to the claimant/appellant for his medical treatment during the period of hospitalisation, Rs.1,00,000 for injury, pain and suffering and mental agony of the claimant but only granted lump sum of Rs.1,50,000/- for loss of income without considering the future loss of income based on the income and percentage of disability.

The learned Advocate for the appellant/claimant submits that the claimant was not granted any amount under 'future prospect' and the learned Tribunal also erred in not granting interest on the compensation amount from the date of filing of the claim application. Accordingly, it was argued that a lesser quantum of compensation has been wrongly awarded by the learned Tribunal.

Per contra the learned Advocate representing the Insurance Company argued that in the facts and circumstances of the case, the award is just and reasonable and there is no further scope of enhancement of the same.

In support of his argument learned Advocate for the appellant/claimant placed reliance on the following judgement of the Apex Court:

i) **R.D. Hattangi Vs. Press Control of India,** reported in **(1995) 1 SCC 551;**

ii) **Raj Kumar Vs. Ajay Kumar,** reported in **(2011) 1 SCC 343;**

iii) **Jagadish Vs. Mohan & ors.,** reported in **(2018) 4 SCC 571;**

iv) **Smt. Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.,** reported in **(2009) 6 SCC 121;** and

v) **National Insurance Company Limted Vs. Pranay Sethi & ors.,** reported in **(2017) 16 SCC 680.**

This Court is of the view that the disability certificate is required to be considered in respect of the income of the victim.

In view of the above observations and considering the judgements and submissions of the parties and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the learned Advocate for the appellant. For the year 2008, in a claim under Section 166 of the Motor Vehicles Act, 1988 an amount of Rs.3,000/- per month does not appear to be exorbitant. The appellant is justified in praying for 10% addition on account of 'future prospect' on the income of the victim. It is now well settled that compensation amount should carry interest from the date of filing of claim application.

Accordingly, the impugned award is modified and recalculated in the manner referred to hereinafter:

Particulars	**Amount (Rs.)**
Monthly Income	Rs.3000/-
Annual Income (Rs.3,000 X 12)	Rs.36,000/-
Add: 10% future prospect	Rs.3,600/-
Total Income	Rs.39,600/-
Less : Deduction of 50% (since The appellant was disabled to the Extent of 50%)	Rs.19,800/-
Total loss of Income	Rs.19,800/-
Multiplier '11'	Rs.2,17,800/-
Medical treatment and Hospitalization expenses granted By the learned Tribunal	Rs.2,00,000/-
	Rs.4,17,800/-
Pain & suffering, injury and mental agony (granted by the learned Tribunal)	Rs.1,00,000/-
	Rs.5,17,800/-
Loss of earning during period of treatment granted by the learned Tribunal	Rs.50,000/-
	Rs.5,67,800/-
Less : Award of the learned Tribunal	Rs.4,50,000/-
Balance enhanced amount	Rs.1,17,800/-

The claimant/appellant acknowledged the receipt of the awarded amount of Rs.4,50,000/- in terms of the direction of the learned Tribunal.

Accordingly, the balance enhanced amount of Rs.1,17,800/-would become payable to the claimant/ appellant by the Insurance Company, together with interest assessed at the rate of 6 percent per annum on and from the date of filing of the claim petition within a period of 45 days from the date of receipt of bank account details of the claimant/appellant.

The Insurance Company is also liable to pay interest at the rate of 6% per annum on the already awarded and paid amount of Rs.4,50,000/- from the date of filing of the claim application till such payment.

The learned Advocate for the appellant will forward the bank account details of the claimant/appellant within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made directly in the bank accounts of the claimant.

With the aforesaid directions the instant appeal is disposed of.

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

There will be no order as to costs.

Urgent Photostat certified copy of the order, if applied for, be given to the parties, upon compliance of formalities on priority basis.

(Shekhar B. Saraf, J.)