28.02.2022
Item No.26
Ct. No.7
CHC
(disposed of)

F.M.A.597 of 2010
IA NO: CAN/2/2017 (Old No:CAN/5776/2017)
(not in file)
(Physical Hearing)

Manarul Sk. @ Manoruddin Sk. & anr.
Vs.
The National Insurance Co. Ltd. & anr.

Mr. Saidur Rahaman
...for the appellants/claimants

Mr. Sanjay Paul
...for the respondent no.1/
Insurance Company

Learned advocate for both the parties are ad idem on the point that the instant appeal may be disposed of giving a go by to the technicalities involved in the process.

It is submitted by the learned advocate for the appellants that since the appellants/claimants have been suffering from financial distress for want of sufficiency of money for their sustenance, the appeal may be disposed of on the basis of materials furnished by both the parties to the case, which is not opposed by the learned advocate representing the Insurance Company/respondent no.1.

When learned advocates for both the parties are agreeable to the expeditious disposal of the instant appeal, the Court should not stand in the way.

The appeal has emerged out against the judgement and award dated 18.02.2009, passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Murshidabad in M.V. Case No.374 of 2006 on a claim under Section 163A of the Motor Vehicles Act, 1988, for the death of Parvina Khatun,a 10 year old girl, in a road accident on 17.05.2006.

Mr. Saidur Rahaman, learned advocate for the appellants/claimants submits that consequent upon the accident, the victim, a 10 year old girl, had to loose her left leg, and since the victim was under no income group, learned Tribunal improperly assessed the quantum of compensation.

Mr. Rahaman further submits that the learned Tribunal has committed error in law in not assessing the quantum of compensation adhering to the structured formula, appended to second schedule of Section 163A of M.V. Act, and grant of lump sum compensation of Rs.50,000/-, as has been awarded in this case, has put the girl to face deprivation of her legal right, as to a claim of compensation, as available under Section 163A of the M.V. Act.

While elaborating such issue, Mr. Rahaman submits that the victim suffered grievous injuries on her left leg, and had to be admitted in Berhampur N.G. Hospital from 17th May, 2006 to 17th June, 2006. The disability certificate issued by Medical Board upon its due constitution was produced, and the extent of disablement was ascertained by the Board to the extent of 50%, and this aspect could not be gone into by the learned Tribunal, leading to inadequate quantification of the award.

Mr. Sanjay Paul, learned advocate representing the Insurance Company/respondent no.1 without disputing with the facts leading to the injury of the victim submits that the award has been rightly assessed by the learned Tribunal upon considering pros and cons by the appellants/claimants, and there is no scope of further compensation doing any modification of award even.

After considering the submission of both the parties, and materials available in record, this Court is of the view that an assessment of compensation in terms of the second schedule, appended to Section 163A of the M.V. Act, seems to be obligatory in the given facts and circumstances of the case, and this Court while ensuring just compensation assesses loss of future earnings of the victim to the extent of 50% as already assessed by the Medical Board, Murshidabad, relying upon the provisions mentioned in serial no.5(a) of structured formula, mentioned in second schedule under Section 163A of the M.V. Act. As the victim was 11 year old minor girl, so the notional income to the tune of Rs.15,000/- per annum should be taken into account, and multiplier in that view of the matter, should be selected at 15 in due adherence to such second schedule as already referred hereinabove. The impugned award is thus, modified and recalculated in the manner referred hereinabove:

Particulars		**Amount (Rs.)**
Annual Income		Rs.15,000/-
Multiplier of 15 to be used		X 15 Rs.2,25,000/-
Loss of future earning (50%)		Rs.1,12,500/-
Pain & sufferings	(+)	Rs.5,000/-
Total compensation		**Rs.1,17,500/-**

The claimants/appellants acknowledge the receipt of the awarded amount of Rs.50,000/- with interest in terms of the direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.67,500/- would become payable to the victim by the Insurance Company/respondent no.1, together with interest assessed at the rate of 6% 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 the bank account particulars of the victim.

Learned advocate for the appellants/claimants will forward the bank account details of the victim within a fortnight from date to the learned advocate for the Insurance Company/respondent no.1. The payment shall be made to the appellants/claimants bank account directly by RTGS or NEFT.

With the aforesaid directions, the instant appeal is disposed of.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The concerned department is directed to tag the applications, if any, with the main appeal.

There shall be no order as to costs.

L.C.R., if any, may be returned back to the court below, if received in the meantime.

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

(Subhasis Dasgupta, J.)