

FMA 268 of 2009

CAN 2 of 2010 (Old No: CAN 4955 of 2010) (Not in file)

Sunita Bardhan & Anr.

Vs.

The Oriental Insurance Company Limited & Anr.

Mr. Krishanu Banik

.....for the appellants

Mr. Sanjay Paul

.....for the respondents

Being aggrieved by and dissatisfied with the judgment passed in Motor Accident Claim Case No. 9/36 of 2007 granting award of Rs. 1,91,700/-, the claimants have preferred this appeal.

The claim case arose out of a petition under Section 163(A) of the Motor Vehicles Act claiming the compensation to the tune of Rs. 5,00,000/- on account of death of the son of the claimants, namely, Sandip Bardhan. The said deceased son of the claimants met an accident on 02.01.2007 near Tringi on GT Road by the involvement of a truck within the jurisdiction of Galsi Police Station. At that time, the said deceased was on duty in the said truck and an accident took place due to rash and negligent driving of the driver of the truck bearing no. WB 23/5856. The son of the claimants, Sandip Bardhan died in Burdwan Medical College & Hospital.

Accordingly, the claim petition was filed with the prayer for compensation to the tune of Rs. 5,00,000/-.

The Insurance Company contested the application by filing written statement denying all material allegations of the claim petition contending, inter alia, that claimants were not entitled to any compensation from the Insurance Company.

In course of the trial, claimant mother of the deceased examined in this case as PW1. In course of this evidence, she stated that her son was drawing salary of Rs. 300/- per month and he died in an accident by the involvement of a truck bearing No. WB 23/5856.

After taking all the evidences and documents on record, the learned Tribunal assessed the compensation on the basis of monthly income of Rs. 1800/- and after applying multiplier 13, learned Tribunal awarded total compensation of Rs. 1,91,700/-.

This is a case under Section 163(A) of the Motor Vehicles Act, so there is no need to prove the rash and negligent driving of the vehicle involved in the accident. Evidence shows that accident took place on 02.01.2007 by the involvement of the truck bearing no. WB 23/5856 for which Galsi Police Station Case No. 5/2007 dated 02.01.2007 under Section 279/304A of the Indian Penal Code started.

In the aforesaid view of the matter, I do not find any reason to interfere with the findings of the learned Tribunal regarding happening of the accident.

It is also not disputed that son of the claimants died due to accident in the Burdwan Medical College and Hospital on 03.01.2007.

Considering all the evidence on record, I am of the opinion that monthly income of Rs. 3,000/- will be justified in assessing compensation after applying multiplier 17 instead of 13.

In view of the aforesaid discussion, I determine the compensation in the following manner:-

1. Monthly Income be assessed as	Rs. 3,000/-
2. Annual Income be assessed as (Rs.3,000 X 12)	Rs. 36,000/-
3. 1/3 rd Deduction (36,000-12000)	Rs. 24,000/-
4. Multiplier as per age of 17 (Rs. 24,000/- X 17)	Rs.4,08,000/-
5. General Damages	Rs. 4,500/-
	Rs. 4,12,500/-
6. Less Awarded amount already received	Rs. 1,91,700/-
	Rs. 2,20,800/-

Accordingly, claimants are entitled to compensation to the tune of Rs. 4,12,500/-.

It is reported that claimants have already received the entire awarded amount of Rs. 1,91,000/- along with interest.

Therefore, the claimants are entitled to balance amount of Rs. Rs. 2,20,800/- along with the interest @ 6% per annum from the date of filing of the claim petition till the date of deposit of the amount.

Respondents/Insurance Company is directed to deposit the amount of Rs. 2,20,800 along with the interest before the Office of the learned Registrar General within six weeks from the date of this order.

Learned Registrar General is also requested to disburse the amount to the claimants in equal share on proper identification.

Accordingly, the appeal being FMA 268 of 2009 stands disposed of.

Any interim applications, if pending, stands disposed of as well.

Record of the Tribunal be transmitted back to the Tribunal at once.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De, J.)