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Ct. No.237
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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURICTION
APPELLATE SIDE

FMA 626 of 2012
with
IA No. CAN 3 of 2016 (CAN 7105 of 2016)
(Application not in the file)

The Oriental Insurance Co. Ltd.
Vs.
Shibnath Chowdhury & Ors.

Mr. Parimal Kumar Pahati
... For the appellant/Insurance Co.

Mr. Uday Sankar Chattopadhyay
Mr. Suman Sankar Chattopadhyay
Ms. Trista Rakshit
... For the respondents/claimants

Parties to this appeal are represented.

This appeal is directed against the judgment and order passed on 7th July, 2010 by the learned Judge, Motor Accident Claims Tribunal, 3rd Court, Burdwan, in MAC Case No.100 of 2008 under Section 166 of the Motor Vehicles Act, 1988.

The claim petition was filed on account of death of one Mantu Choudhury, aged about 22 years, who met with an accident on 8th August, 2008 by the involvement of a vehicle (Mini Truck) bearing registration no.WB-41C/7253 at Tejganj at about 1.45 p.m. under Burdwan Police Station. The injured Mantu Choudhury succumbed to his injuries and Burdwan Police Station Case No.422 of 2008 was started.

One of the petitioners Rekha Choudhury and one Kumaresh Biswas and one Pradip Kumar Biswas were examined as PW-1, PW-2 and PW-3. In course of their evidence, all police reports, insurance policy of the offending vehicle and post-mortem report were admitted in evidence as Exhibits 1 to 8.

After considering all the evidence on record, the learned Tribunal assessed the monthly income of the deceased as Rs.2,500/- and annual income as Rs.30,000/- after deduction of the 1/3rd and applying multiplier 16 in terms of the average age of the parents. The learned Tribunal awarded Rs.3,24,500/- including funeral expenses and loss of estate.

In this appeal, the learned advocate appearing on behalf of the appellant/Insurance Company has contended that the deduction of 1/3rd for personal expenses was not correct. It should be 50% and multiplier should be 18 instead of 16 in terms of average age of the parents. It is also submitted on behalf of the appellant/Insurance Company that the driver of the offending vehicle was carrying a fake licence and thereby he was in violation of the policy for which the Insurance Company is not liable to pay.

Considering all facts and circumstances, I find it justified to determine the award as follows:-

Annual Income	Rs. 30,000/-

Deduction 50%	Rs. 15,000/-
	Rs. 15,000/-
Multiplier 18 (Age 22 yrs.) Loss of dependency (Rs.15,000/- x 18)	Rs.2,70,000/-
Add: Funeral Expenses & Loss of Estate	Rs. 33,000/-
Total	Rs.3,03,000/-

It is submitted on behalf of the appellant/ Insurance Company that total awarded amount of Rs.3,24,500/- has already been deposited with the learned Registrar General and the appellant/Insurance Company has not deposited any interest on the awarded compensation.

The appellant/Insurance Company is directed to deposit interest @ 6% per annum on the amount of Rs.3,03,000/- from the date of filing of the claim petition, i.e., on 19th September, 2008, till the actual deposit of the amount before the learned Registrar General of this Court within six weeks from the date of this order.

The learned Registrar General will disburse the amount equally among the respondents/claimants of Rs.3,03,000/- along with interest @ 6% per annum from the date of filing of the claim petition till the actual deposit.

In case of any excess amount after disbursement of the awarded amount with interest to the respondents/ claimants, the same shall be returned to the appellant/ Insurance Company.

Considering all facts and circumstances, the appellant/Insurance Company is at liberty to claim the awarded amount from the owner of the vehicle through separate proceedings.

With the above observation, the appeal, being FMA 626 of 2012, stands disposed of.

All pending applications, if any, also stand disposed of.

Records of the learned Tribunal be transmitted back immediately.

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

(Bibhas Ranjan De, J.)