

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMAT 7 of 2011
with
IA No. CAN 2 of 2013 (CAN 2788 of 2013)

Smt. Manju Roy & Ors.
Vs.
The National Insurance Company Limited & Anr.

Mr. Amit Ranjan Roy
... For the appellants/claimants

Mr. Sanjoy Paul
... For the respondent no.1/Insurance Co.

This appeal is directed against the judgment and award passed on 18th September, 2010 by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Paschim Medinipur, in MAC Case No.439 of 2009 under Section 166 of the Motor Vehicles Act, 1988 whereby the learned Judge awarded compensation to the tune of Rs.3,90,000/-.

According to the claim application, on 28th September, 2009 at about 10/10.30 p.m. the victim Buddhadev Roy was proceeding towards his house by riding his bicycle and the offending motor-cycle, bearing registration no.WB-34F/5704 coming with high speed from the side of Belda and in reckless manner dashed the victim. As a result, the victim sustained bleeding injury on his person and died at Midnapore Medical College and Hospital. It was further case of the claimants that the

victim was the only son of the appellant nos.1 and 2 and used to earn Rs.8,000/- per month and he was 19 years old and that is why the appellants/claimants made a claim of Rs.10,33,500/- towards compensation.

National Insurance Company Limited contested the case by filing written statement denying all materials allegations but the owner of the vehicle did not contest the case.

On behalf of the appellants/claimants, three witnesses were examined. All of them have corroborated the factum of accident, age of the victim and other particulars.

Learned Tribunal after considering all of the evidence on record and also considering the age of the victim and also in absence of any documents in support of the income, returned his finding in favour of monthly income of Rs.3,000/- per month and applied multiplier 16 in view of age of mother of the deceased and finally granted award of Rs.3,90,000/-

Learned advocate on behalf of the appellants/claimants submits that in view of the decision of **Sarala Verma v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121**, the multiplier would be 18 instead of 16. It has been further submitted on behalf of the appellants/claimants that the learned Tribunal did not consider the future prospect and general damages.

Learned advocate appearing on behalf of the respondent no.1/Insurance Company did not contradict the submission advanced on behalf of the appellants/claimants.

On careful scrutiny of the entire evidence on record and the admitted age of the victim, I find it necessary to calculate the compensation as follows:-

Annual Income (Rs.3,000/- x 12)	Rs. 36,000/-
Add: Future prospect (@ 40%)	Rs. 14,400/-

	Rs. 50,400/-
Less: 50% Deduction personal expenses	Rs. 25,200/-

	Rs. 25,200/-
Multiplier by 18	x 18

	Rs. 4,53,600/-
Add: General Damages	Rs. 30,000/-

	Rs. 4,83,600/-
Total	Rs. 4,83,600/-
Less – Awarded by Id. Tribunal	Rs. 3,90,000/-

ENHANCEMENT	Rs. 93,600/-

For the reasons, it is seen that the appellants/claimants are entitled to the enhanced compensation amount of Rs.93,600/- along with interest @ 6% per annum from the date of filing of the claim petition, i.e., on 25th November, 2011, till the deposit of the amount before the office of the learned Registrar General.

In the aforesaid view of the case, the respondent/National Insurance Company Limited is

directed to deposit the enhanced amount of Rs.93,600/- along with interest @ 6% per annum from the date of filing of the claim petition i.e., on 25th November, 2009, 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 appellants/claimants will be entitled to withdraw the enhanced amount with interest.

The learned Registrar General will disburse the amount to the appellant/claimant nos.1 and 2 in equal share on proper identification.

With the above observation, the appeal, being FMAT 7 of 2011, stands disposed of.

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

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

(Bibhas Ranjan De, J.)