31.01.2022
Item No.1
Ct. No.7
CHC
(disposed of)

F.M.A.2658 of 2015
I.A. NO: CAN/1/2015 (Old No:CAN/6995/2015)
(not in file)
(Via Video Conference)

Nanda Rani Das & ors.
Vs.
The Oriental Insurance Company Limited & ors.

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

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

Learned advocates for both the parties are ad idem, on the issue that the instant appeal may be disposed of giving a go-bye to the technicalities involved in the process.

When both the parties are consensus on expeditious disposal of this appeal, the Court should not stand in the way.

Being dissatisfied with the award and judgement dated 19th July, 2013, passed by the learned Member, Motor Accident Claims Tribunal & District Judge, Nadia, in M.A.C. Case No.224 of 2010, the appellants filed the instant appeal before this Hon'ble Court on the ground of inadequate compensation granted by the learned Tribunal in connection with death of

Susanta Das in a road traffic accident occurred on 17th February, 2010.

Mr. Amal Ranjan Roy, learned advocate appearing for the appellants/claimants has primarily urged four grounds in support of this appeal.

Mr. Roy submits that the learned Tribunal has erroneously assessed the income of the deceased at Rs.2,000/- per month taking into the account of the service rendered by him for 20 (twenty) days, which should have been Rs.4,500/- per month.

As regards the second point urged with respect to the future prospect, it is contended by Mr. Roy that learned Tribunal has committed error in not granting future prospect to the tune of 25% additionally towards the income of the deceased, for the perfect quantification of the deceased, as the deceased left this world, when he was 41 years old having five issues including two married daughters.

Regarding the third point, Mr. Roy alleges the multiplier has not been properly chosen and it is erroneously chosen as 12, instead of 14.

Mr. Roy further alleges that though damages to the extent of Rs.9,000/- have been granted by the Tribunal, but it was quite inadequate, and it should have been Rs.70,000/- under collective head of damages to be granted, in view of the settled proposition of the law.

Mr. Sanjay Paul, learned advocate appearing on behalf of the Insurance Company/respondent no.1 submits that the learned Tribunal rightly assessed the income of Rs.2,000/- per month notionally in absence of documentary evidence being produced and there is no scope for any interference by this Hon'ble Court at this stage.

Heard the submission of the parties and considered the judgements of the Hon'ble Apex Court in the case of ***Smt. Sarla Verma & ors. vs. Delhi Transport Corporation & anr.*** reported in **(2009) 6 SCC 121** and ***National Insurance Company Limited vs. Pranay Sethi & ors.*** reported in **(2017) 16 SCC 680,** as sought to be applied by appellants in this case, and also following the practice of this Court on the point of monthly income, I find some substance in the submission of the appellants. For the year 2010, in a claim under Section 166 of the Act, 1988, an amount of Rs.3,000/- per month does not appear to be exorbitant. The appellants are also entitled to get 25%, additional amount towards 'Future Prospect' as well as Rs.70,000/- towards 'general damages' considering the ratio as decided in ***Pranay Sethi (Supra)***, I am also of the view that the multiplier should have been 14 considering the structure as appended in ***Sarla Verma (Supra)***. Accordingly, the impugned award is required to be modified in the following manner:-

Mode of assessment		**Amount (Rs.)**
Monthly Income	3000 x 12 =	36,000/-
Deduction 1/ 3	(-)	12,000/-
		24,000/-
Future Prospect 25%		+ 6,000/-
		30,000/-
Multiplier (Age 41 years)		X 14
		4,20,000/-
General Damages		+ 70,000/-
		4,90,000/-
Tribunal Award	(-)	2,01,000/-
BALANCE		**2,89,000/-**

Mr. Roy acknowledges that his clients have already received the compensation of Rs.2,01,000/-. Therefore, the Insurance Company/respondent no.1 is directed to pay the balance sum of Rs.2,89,000/- together with interest at the rate of 6% per annum on and from the date of filing of the claim application till the date of payment within 45 days from the date of receipt of the bank particulars of the claimants by the Insurance Company/respondent no.1 in the same proportion and manner, as indicated in the award.

Mr. Roy further acknowledges that his clients have received only awarded sum of Rs.2,01,000/- but no amount towards interest was deposited by the Insurance Company.

In reply, Mr. Paul submits that he has no instruction regarding non-deposit of interest as granted by the learned Tribunal.

Be that as it may, the Insurance Company/respondent no.1 is directed to pay the interest @ 6% per annum on the awarded sum of Rs.2,01,000/- from the date of claim application till date of deposit of such amount before the Tribunal, if not paid earlier.

It is made clear that all the payments shall be made through NEFT/RTGS to the bank accounts of the claimants and for such purpose, the learned advocate for the claimants shall furnish bank particulars of the claimants to the learned advocate for the respondent no.1/Insurance Company within two weeks.

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

L.C.Records be returned forthwith, if received in the meantime.

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

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

There shall be no further order as to costs.

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.)