

11-11-2022
Item no.4
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

FMA No.3058 of 2002
Smt. Shyam Pyari Devi & Ors.

-vs-

Oriental Insurance Company Ltd. & Anr.

Mr. Krishanu Banik ...for the appellants

Mr. Rajesh Singh ...for the insurance company

This appeal has been filed assailing an award passed by the learned Judge, Motor Accident Claims Tribunal, 11th Court, Alipore, South 24 Parganas in MACC No.169 of 1998.

The fact of the case, in a nutshell, is that on May 7, 1997 at about 15.00 hours one Ram Chandra Yadav came across a motor accident near Narsinghapur village, P.S. Debagaon in Ajamgarh while Ram Chandra was passing along the road driving a truck bearing No.WB03 9961. One high-tension electric wire suddenly fell down on the vehicle, as a result of which the entire vehicle was electrocuted and Ram Chandra died on the spot at the age of 45. The police registered a case. Thereafter, his wife and his minor sons lodged a claim case before the motor accident claims tribunal with a prayer for compensation to the tune of Rs.3,75,000/-. The insurance company contested the claim case by filing written statement denying all allegations of the claimants and also denied the liability to compensate. The owner of the truck did not appear to contest the claim application before the tribunal.

Wife of the deceased was examined as PW1 and one Surendranath Singh as PW2. From their evidence, it appears that PW1 stated about the incident including the

income of her husband. PW2 corroborated the income of the deceased.

Considering all evidence on record, learned tribunal awarded a sum of Rs.2,01,500/- to the claimants in disposing of the claim application under section 163A of the Motor Vehicles Act, 1988.

This appeal has been preferred with a view to enhancement of the award on the grounds of non-application of mind by the learned tribunal regarding applying the multiplier to assess the compensation. In course of hearing of the appeal, learned advocate appearing for the appellants also advanced his argument in the same tune. It is submitted that learned tribunal took multiplier 8, to assess the compensation, instead of multiplier 11 according to the rules. Accordingly, learned advocate for the appellants prays for modification of the award after applying the multiplier 11.

Learned advocate appearing for the insurance company conceded the submission advanced by learned advocate for the appellants.

For the reasons, I determine the award after applying multiplier 11 in terms of the age of the deceased at the time of the accident as follows.

1. Monthly Income be assessed as	Rs.3,000/-
2. Annual Income be assessed as (Rs.3000x12)	Rs.36,000/-
3. 1/3 rd deduction	Rs.24,000/-
4. Multiplier 11 (Rs.24,000/-x11)	Rs.2,64,000/-
5. General damages	Rs.9,5000/-
	
	Rs.2,73,500/-
6. Less Awarded amount	Rs.2,01,500/-
	

Balance amount

Rs.72,000/-

Learned advocate for the insurance company has submitted that the claimants have already received the sum awarded by the tribunal. Thus, the claimants are entitled to balance award amount of Rs.72,000/- along with the interest from the date of filing of the application in equal share, as I can take judicial notice of the age of majority of the other claimants, except the respondent no.1, who were the minor sons of the deceased on the date of the accident in 1997.

The insurance company is accordingly directed to deposit Rs.72,000/- along with interest @ 6% p.a. from the date of filing of the claim application till the actual date of deposit before the office of the learned Registrar General of this court, within six weeks from date.

The learned Registrar General is requested to disburse the amount to the appellants-claimants in equal share subject to satisfying their identity as proof.

With the above, the appeal stands disposed of. Any pending application, if there be any, is disposed of.

Let the record of the tribunal be transmitted back immediately.

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]

