

ML-56
09.11.2022
Ct. No.237
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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 1091 of 2014
with
IA No. CAN 2 of 2015 (CAN 4792 of 2015)
with
CAN 3 of 2018 (CAN 6621 of 2018)
(Applications are not in the file)

Sekh Raihan @ Seikh Rayahan & Anr.
Vs.
The National Insurance Company Limited & Anr.

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

Mr. M.P. Chakrabarty
Ms. Ratnadipa Karmakar
... For the respondent no.1/Insurance Co.

This appeal is directed against the judgment passed on 11th April, 2013 by the learned Judge, 5th Motor Accident Claims Tribunal, Burdwan, in MAC Case No.77 of 2011/319 of 2011 under Section 166 of the Motor Vehicles Act, 1988 dismissing the claim petition.

The claim petition filed on account of death of one Sk. Md. Firoz, son of the claimants, on 7th November, 2011 at about 2.15 p.m. while the victim was walking along kachcha portion of Burdwan-Suri road, one Maruti Van bearing registration no.WB-38G/9429 proceeding with a very high speed dashed him near State Bank of India at Itachanda. As a result, the victim sustained serious injury on his person and ultimately succumbed to his injuries. It was alleged that the accident took place due to negligence and rash driving of the vehicle. At the time of incident the

victim was aged about 28 years and his monthly income was Rs.12,000/- as he was a veterinary doctor training holder, business of cement pillars, pot ring etc.

In the aforesaid view of the matter, the claim petition was filed with a prayer for compensation to the tune of Rs.6,00,000/-.

The respondent no.11/National Insurance Company Limited which insured the vehicle bearing registration no. WB-38G/9429 contested the claim petition by filing the written statement denying all materials allegations contending, inter alia, that the claimants are not entitled to any compensation.

To prove the case, the appellants/claimants examined three witnesses. The victim himself examined as PW-1, one Sk. Nur Alam was examined as PW-2 and one Krishna Pada Mate was examined as PW-3. Both PW-1 and PW-2 proved the fatal accident by the involvement of the vehicle bearing registration no.WB-38G/9429. From their evidence, it appears that the accident took place due to rash and negligent driving of the driver of the vehicle.

It is true that the appellants/claimants could not produce any document showing income of their son in course of the proceeding but that does not necessarily mean that a man of 28 years had no income.

From that point of view, I am sorry to subscribe to the view adopted by the learned Tribunal at the time of dismissing the claim petition.

Considering the age of the victim and also considering the minimum wages, I find it justified to assess the monthly income of the victim at the time of death as Rs.4,000/-. If that be the position, I find no option but to assess the compensation after applying the multiplier 17 as follows:-

Annual Income (Rs.4,000/- x 12)	Rs. 48,000/-
Less: 1/2 Deduction	Rs. 24,000/-

	Rs. 24,000/-
Add: 40% Future prospect	Rs. 9,600/-

	Rs. 33,600/-
Multiplier 17 (Rs.33,600/- x 17)	Rs.5,71,200/-
Add: General Damages	Rs. 30,000/-

Total Awarded Amount	Rs.6,01,200/-

For the reasons, it is seen that the appellants/claimants are entitled to the compensation Rs.6,01,200/- 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.

The respondent no.1/Insurance Company is directed to deposit the compensation amount of Rs.6,01,200/- along with interest @ 6% per annum from the date of filing of the claim petition, i.e., on 25th November, 2011, till the actual deposit of the amount

before the office of 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 entire amount with interest.

The learned Registrar General will disburse the amount to the appellants/claimants in equal share on proper identification.

With the above observation, the appeal, being FMA 1091 of 2014, 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.)