21.02.2022
Item No.14
Ct. No.7
CHC
(disposed of)

F.M.A.126 of 2021
(Physical Hearing)

Smt. Ujwala Halder & ors.
Vs.
ICICI Lombard General Insurance Company Limited & anr.

Mr. Subir Banerjee,
Mr. Sandip Bandyopadhyay,
Mrs. Ruxmini Basu Roy
...for the appellants/claimants

Mr. Parimal Kumar Pahari
...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 by to the technicalities involved in the process and the appeal may be instantly disposed of even without consulting lower court records.

It is submitted by the learned advocate for the appellants/claimants since the appellants/claimants have been suffering from financial distress for want of sufficiency of money for their sustenance, the appeal may be disposed of on the basis of materials furnished by both the parties to this case, which is not even opposed by the learned advocate representing the Insurance Company/respondent no.1.

When learned advocate for both the parties are agreeable to the expeditious disposal of the instant appeal, the Court should not stand in the way.

The appeal is directed against the judgement and order dated 30.11.2019, passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District and Sessions Judge, Fast Track Court-V, Alipore, South 24 Parganas in M.A.C. Case No.40 of 2016 (Computer Registration No.M.A.C. Case No.178 of 2016) on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one Satyendra @ Satyen Halder, aged about 51 years, in a road accident on 23.07.2016.

Very small point is involved in this appeal pertaining to the erroneous assessment of the income of the deceased, who was a green vegetable seller by profession at the time of accident occurred on 23rd July, 2016.

Mr. Subir Banerjee, learned advocate for the claimants/appellants argues that the learned Tribunal has wrongly assessed the monthly income of the deceased at Rs.3,000/- per month, while the deceased used to earn Rs.12,000/- per month from his occupation, as green vegetables seller, which has been disclosed in the oral evidence already adduced before the learned Tribunal. Accordingly, it is argued that a lesser quantum of compensation has been wrongly awarded by the learned Tribunal making erroneous assessment of income of deceased.

Per contra, the learned advocate representing the Insurance Company/respondent no.1 argues that in the facts and circumstances of the case, the award is just and reasonable and there is no further scope of enhancement in respect of the awarded amount.

Having considered submission of both sides as well as proposition laid down by the Apex Court in ***Smt. Sarla Verma & ors. vs. Delhi Transport Corporation & anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited vs. Pranay Sethi and ors.*** reported in ***(2017) 16 SCC 680*** and also following precedence of this Court, the Court is of the view that there is substance in the arguments advanced by appellants/claimants. For the year 2016 in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinabove:-

Particulars	**Amount (Rs.)**

Monthly Income	Rs.5,000/-
Annual Income	X 12
	Rs.60,000/-
Add: Future Prospect	
@ 10%	Rs.6,000/-
	Rs.66,000/-
Less: Deduction 1/4th	
for personal expenses	Rs.16,500/-
	Rs.49,500/-
Multiplier 11	X 11
	Rs.5,44,500/-
Add: General Damages	Rs.70,000/-
	Rs.6,14,500/-
Add: Medical Expenses	Rs.120/-
(granted by the ld. Tribunal)	Rs.6,14,620/-
Less: Award of Ld. Tribunal	Rs.3,96,820/-
Balance enhanced amount	**Rs.2,17,680/-**

The claimants acknowledge the receipt of the awarded amount of Rs.3,96,820/- in terms of the direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.2,17,680/- would become payable to the appellants by the Insurance Company/respondent no.1, together with interest at the rate of 6% per annum on and from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank account particulars of the appellants/claimants.

Learned advocate for the appellants/claimants will forward the bank account details of the appellants within a period of fortnight from date to learned advocate for the Insurance Company/respondent no.1. The payment shall be made to the claimants bank accounts directly in the proportion, as already decided by learned Tribunal.

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

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

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

There shall be no order as to costs.

L.C.R., if any, may be returned back to the court below, if received in the meantime.

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.)