

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURICTION
APPELLATE SIDE

IA No. CAN 1 of 2012 (CAN 2900 of 2012)
in
FMAT 336 of 2012

Smt. Arati Pal & Anr.
Vs.
The National Insurance Company Limited & Anr.

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

Mr. Rajesh Singh
... For the respondent no.1/Insurance Co.

In re: CAN 1 of 2012 (CAN 2900 of 2012)

The application for condonation of delay is taken up for hearing.

It is submitted that the appeal was filed with 236 days delay.

Considering the nature of the appeal and other facts and circumstances, I find no reason to disallow the prayer for condonation of delay. The delay is condoned.

The application stands disposed of.

The appeal is admitted.

At the instances of both sides, the appeal is taken up for hearing.

This appeal is directed against the judgment and award passed on 18th April, 2011 by the learned Judge,

Motor Accident Claims Tribunal, 2nd Court, Additional District Judge, Paschim Medinipur, in MAC Case No.434 of 2009.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the parents of the deceased who was a Constable of Border Security Force. On 11th July, 2009 at about 4.30 a.m. the deceased was going to Digha by Maruti Van, bearing registration no.WB-34T/4996 and near Hindusthan Hotel under Egra Police Station, the said Maruti Van dashed behind a truck on the left side of the road and that accident took place due to negligent driver of the Maruti Van. The son of the claimants died on the spot. Egra Police Station Case no.143 of 2009 dated 11th July, 2009 was started. At the relevant point of time, the deceased was aged about 28 years and his gross salary was Rs.13,703/- per month.

Respondent/Insurance Company contested this case denying all allegations made in the claim petition and it is contended that the owner of the Maruti Van was not alone responsible for the accident.

However, the learned Tribunal recorded the evidence of witnesses adduced on behalf of the claimants. After considering all the evidences and documents available on record, the learned Judge allowed the compensation to the tune of Rs.8,16,168/- along with interest @ 9% per annum from the date of filing of the claim petition.

In this appeal, learned advocate appearing on behalf of the appellants/claimants has submitted that the learned Tribunal did not allow the amount towards future prospect and also did not consider the multiplier according to age of the deceased. That apart, learned advocate on behalf of the appellants/claimants did not raise any dispute regarding other portion of the compensation.

Learned advocate on behalf of the respondent/ Insurance Company has submitted that the awarded compensation of Rs.8,16,168/- along with interest @ 9% per annum has already been received by the appellants/claimants. So the compensation, if enhanced, may be given with interest after adjustment of previous rate of interest already allowed by the learned Tribunal.

So far as the accident and the liability of the Insurance Company are concerned, no dispute raised before this Court, save and except future prospect and multiplier applied by the learned Tribunal.

This is a case of death of a bachelor of 28 years as well as he was an employee of Border Security Force. Keeping an eye to the aforesaid facts and circumstances, I find it necessary to apply the multiplier 17 according to the age of deceased at the time of death. That apart, future prospect of 50% will be added in the compensation amount as per the settled parameters laid down by the Hon'ble Apex Court.

In the aforesaid facts and circumstances, I determine the compensation as follows:-

Annual Income	Rs. 1,47,576/-
Add: Future prospect (@ 50%)	Rs. 73,788/-

	Rs.2,21,364/-
Less: 1/2 nd Deduction	Rs.1,10,682/-
	<u>Rs.1,10,682/-</u>
Multiplier 17 (Age 28 yrs.) Loss of dependency (Rs.1,10,682/- x 17)	Rs.18,81,594/-
Add: General Damages	Rs. 30,000/-
	<u>Rs. 30,000/-</u>
Total	Rs.19,11,594/-
Less – Awarded by ld. Tribunal	<u>Rs. 8,16,168/-</u>
ENHANCEMENT	Rs.10,95,426/-

In the aforesaid view of the matter, it is seen that the appellant/claimant no.1, Smt. Arati Pal, is entitled to further enhanced amount of Rs.10,95,426/- along with interest @ 4% per annum from the date of filing of the claim petition, i.e., on 23rd November, 2009, till the actual payment.

The respondent/Insurance Company is directed to deposit the enhanced amount of Rs.10,95,426/- along with interest @ 4% per annum from the date of filing of the claim petition 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 appellant/claimant no.1 will be entitled to withdraw the enhanced amount with interest subject to

payment of *ad valorem* court fees on the enhanced amount.

The learned Registrar General will release the amount to the appellant/claimant no.1 on proper identification and subject to verification of the payment of *ad valorem* court fees.

With the above observation, the appeal, being FMAT 336 of 2012, stands disposed of.

All pending applications, if 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.)