

24.02.2022
Item No.38
Ct. No.7
AGM

**F.M.A. 1197 of 2021
(Via Video Conference)**

**Archana Taladhi & Ors
Vs.**

The United India Insurance Company Ltd. & Anr

Mr. Amit Ranjan Roy, ... For the Appellants.

Mrs. Sucharita Paul, ... For the Respondents.

Learned advocate for the parties are ad idem on the point that the instant appeal may be disposed of giving a go by to the technicalities involved in the process.

It is submitted by learned advocates for the appellants/claimants that claimants have been suffering financial distress for want of sufficiency of money for their sustenance in this pandemic, and urges the Court for disposing of the appeal on the basis of materials furnished by both the parties to the case, which is not opposed by the learned advocate representing the Insurance Company/respondent No.1.

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

The appeal has emerged out against the judgment and award dated 19th February, 2021, passed by

learned Additional District Judge/Fast Track Court-II, Tamluk, Purba Medinipur, in Motor Accident Claim Case No. 102 of 2017/CIS Regn No. 582 of 2016, on a claim case under Section 166 of the Motor Vehicles Act, 1988 granting award to the tune of Rs. 17,97,557/- to the legal heirs of the deceased, Ananda Dulal Talidhi aged about 50 years, for a vehicular accident, occurred on 9th December, 2016 by reason of involvement of vehicle bearing No WB-31/2897 in consequence of rash and negligent driving.

The solitary point raised in this appeal pertains to erroneous grant of interest to the award ignoring the position of the law, laid down in Section 171 of the MV Act.

Mr. Amit Ranjan Roy, learned advocate representing the appellants/claimants submits that the claimants are entitled to interest from the date of filing of claim case. However, the Tribunal has erroneously awarded interest to the claimants, only from the date of recording of evidence of PW1 thereby leading to inadequate quantification of the award, which can hardly be regarded to be just and proper.

Mrs. Paul, the learned advocate appearing on behalf of the Insurance Company argues that there lies nothing to be interfered with in this appeal, and

as such, there is no scope for making any interference by this Court. She strongly opposes the case made out by the appellant. According to Mrs. Paul, the grant of interest as laid down in Section 171 of the MV Act, is always discretionary and varies from case to case, which should not be straight jacketed in the manner, as proposed by Mr. Roy.

Facts leading to the death of the victim in the above accident are not at all disputed.

Having considered the submissions of both sides, as well as the proposition of law, the Court is of the view that there is strong force in the submissions advanced by the learned advocate for the appellant/claimant.

Accordingly, the claimants are found entitled to 6% interest from the date of filing of the claim case and not from the date of evidence, as erroneously given in this case.

The claimants acknowledge the receipt of the entire awarded amount of Rs. 17,97,557/- along with interest as directed by the Tribunal. Insurance Company would ensure calculation and pay interest on the principal awarded amount of Rs. 17,97,557/-, from the date of filing of claim application till the date the recording of evidence of PW1 commenced, within

a period of 45 days from the date of receipt of the bank account particulars of the appellants.

Learned advocate for the appellants will forward the bank account details of the appellants within three weeks from date to learned advocate for the insurance company. The payment is to be made in the proportion as already decided by the learned Tribunal. The payment should be made directly to the bank account of the claimants through NEFT/RTGS.

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.

There shall be no further order as to costs.

Department is directed to send down the Lower Court Records immediately, if received.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Subhasis Dasgupta, J.)