

03.03.2022
Item No.1
Ct. No.7
CHC
(disposed of)

**F.M.A.1347 of 2021
(Physical Hearing)**

**Sabitri Ghosh & ors.
Vs.
The Oriental Insurance Co. Ltd. & anr.**

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

Mr. Sanjay Paul
...for the respondent no.1/
Insurance Company

Learned advocate for both 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 Mr. Jayanta Banerjee, learned advocate for the appellants/claimants that the appellants/claimants have been suffering from 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 instant appeal has emerged out against the judgement and award dated 19th day of January, 2021, passed by learned Judge, Motor Accident Claim Tribunal, 4th Court, Krishnagar, Nadia in Motor Accident Claim Case No.114 of 2007, on a claim case under Section 166 of the Motor Vehicles Act, 1988, granting award to the tune of Rs.8,44,077/- to the appellants/claimants of the deceased Narayan Chandra Ghosh, aged about 51 years, for a vehicular accident occurred on 03.02.2007 by reason of involvement of vehicle bearing No. WB-25B-2161 in consequence of rash and negligent driving.

Facts leading to the death of the deceased are not at all disputed.

Mr. Banerjee, learned advocate representing the appellants/claimants primarily urges sole ground in support of this appeal.

The solitary point raised in this appeal pertains to miscalculation of award with arithmetical precision.

Though the learned Tribunal, according to Mr. Banerjee, has considered all the components required to be dealt with, in assessing the award, but erroneous calculation of the same has led to the grant of lesser amount of award, causing the appellants/claimants to suffer substantial deprivation in respect of legal rights of the appellants/claimants, as regards their claim under Section 166 of the M.V. Act.

Learned Tribunal duly considered the facts of the case revealed in the evidence and materials on record, and also considered the ratio decided in the case of ***Smt. Sarla Verma & ors. vs. Delhi Transport Corporation Limited & anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited vs. Pranay Sethi & ors.*** reported in ***(2017) 16 SCC 680***.

Mr. Paul, in his all fairness submits that as regards the components required to be addressed, there lies nothing to be interfered with in the award, but there lies the necessity of making recalculation in terms of the components already covered and addressed by the learned Tribunal in this case, so as to make the award just and proper.

Accordingly, the order passed by the learned Tribunal is modified/recalculated to the extent

mentioned herein below and recalculated as hereunder:-

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly Income	Rs.8,778/-
	X 12
Annual Income	Rs.1,05,336/-
Less: Deduction 1/3 for personal expenses	Rs.35,112/-
	Rs.70,224/-
Add: 15% future prospect	Rs.10,533/-
	Rs.80,757/-
Multiplier 11	X 11
	Rs.8,88,327/-
Add: General Damages	Rs.70,000/-
	Rs.9,58,327/-
Less: Award of Id. Tribunal	Rs.8,44,077/-
Balance enhanced amount	Rs.1,14,250/-

The claimants/appellants acknowledge the receipt of the awarded amount of Rs.8,44,077/- along with interest. The balance enhanced sum of Rs.1,14,250/- would become payable to the appellants/claimants together with interest assessed at the rate of 6% per annum on and from the date of filing the claim petition till payment within period of 45 days from the date of receipt of the bank account particulars of the claimants/appellants from the learned advocate of the appellants/claimants.

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.)