01-08-2022
Item no.15
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

FMA No.9 of 2022
Sangita Chakladar & Ors.
-vs-
The United India Insurance Company Limited & Anr.

Mr. Amit Ranjan Roy …for the appellants

Ms. Sucharita Pal …for the insurance company

Assailing the compensation awarded by the learned Judge, Motor Accident Claims Tribunal (in short tribunal), 3rd Court, Krishnagar, Nadia in MACC No.2013 of 2021 as inadequate compensation, the claimants – Sangita Chakladar, Rita Chakladar (Biswas) and Khantabala Chakladar – have preferred the instant appeal. By the impugned award dated March 4, 2021 the learned tribunal directed the United India Insurance Company to pay an amount of Rs.46,33,168/- as compensation to the claimants.

It may be noted herein that during pendency of the appeal, the third appellant – Khantabala Chakladar, the mother of the deceased – expired; and on her demise the claimant no.1, Sangita Chakladar, has been treated as her legal heir.

The background facts which led the filing of the claim application under section 166 of the Motor Vehicles Act, 1988 which are necessary for adjudication may be summarized as follows.

On June 14, 2016 at about 7.30 a.m., Santi Ranjan Chakladar of Jagadanandapur, Bethuadahari, P.S.-Nakashipara, district Nadia along with his nephew was proceeding towards Bethuadahari Bazar. At that time, a lorry bearing No.W.B.89/1237, which was proceeding towards Krishnagar in rash and negligent manner dashed both of them and as a result of which, both of them sustained severe injuries of their person and died on the spot. The deceased Santiranjan Chakladar was a BSF constable under the Commandant 68 BN BSF, Dabla, Jaisalmer in Rajasthan. Before his death, he used to earn Rs.34,000/- per month. The victim died at the age of 34 years.

On the allegations of rash and negligent driving on the part of the driver of the offending vehicle, one Nakashipara P.S. Case No.432 of 2016 dated June 14, 2016 under sections 279/304 IPC was registered against him for investigation.

At the time of accident, the offending vehicle was registered with the United India Insurance Company, the respondent no.1 herein.

The claimant nos.1 and 2 are the daughter and widow of the deceased and the claimant no.3, Khantabala Chakladar, since deceased, was his mother. The victim was the only bread-earner of his family. Owing to his sudden and untimely demise, the family members of him fell in intense financial distress.

On the facts as above, the claimants sought for total compensation of Rs.69,45,602.

Upon hearing learned advocates appearing for the respective parties and on assessment of evidence on record, the learned tribunal partly allowed the claim application and awarded the compensation as indicated above.

What I find from the impugned judgement, the learned tribunal, on assessment of the evidence on record, has recorded finding that due to rash and negligent driving on the part of the driver of the offending vehicle, the accident took place and the deceased, Santiranjan Chakladar, lost his life because of the accident. However, on analysing the evidence on record, I do not find any reason to differ with the finding as recorded by the learned tribunal. In view of these facts and since the insurance company has not preferred any cross-objection, it stands proved that due to rash and negligence driving on the part of the driver of the offending vehicle, the accident occurred and the deceased died of the accident.

As I find from the impugned award, the learned tribunal has held that the monthly income of the deceased was Rs.33,663/-. Such assessment of monthly income by the learned tribunal is not disputed on the part of the insurance company. Perusal of the impugned award shows that the learned tribunal assessed the compensation by adopting multiplier 17. But it is the fact that the victim died at the age of 34 years.

As mandated by the Hon'ble Supreme Court at para.42 of the decision in the case of **Sarla Verma v. Delhi Transport Corporation India Limited** reported in **(2009) 6 SCC 621**, the multiplier 16 will be adopted for age group between 31 and 35 years. Therefore, the multiplier 17 as adopted by the learned tribunal is erroneous. The multiplier 16 should be adopted to assess the compensation.

Learned counsel for the appellants submits that the learned tribunal erred in recording the finding that the claimants are entitled to get Rs.55,000/-, on the counts of loss of estate, consortium and funeral expenses, instead of Rs.70,000/- on such counts. Learned counsel by placing reliance on the decision in the case of **National Insurance Company Limited v. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 680** submits that since the deceased had permanent job as a BSF constable and since he was below the age of 40 years, future prospect at the rate of 50% should be added to assess the compensation towards loss of dependency. On such score, learned counsel submits that the award passed by the learned tribunal requires modification.

On the other hand, learned counsel for the insurance company opposes the prayer of enhancement of compensation as made by the appellants.

As it appears from the impugned award, the learned tribunal erred in not adding the future prospects to the compensation. In view of the decision in the case of **Pranay Sethi (**supra), future prospects at the rate of 50% should be added to calculate the compensation as the victim having a permanent job was below the age of 40 years.

The Hon'ble Supreme Court in the case of **Pranay Sethi** at para.59.8 has held that reasonable figures on conventional heads namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. Therefore, the claimants are entitled to get Rs.70,000 on the counts as above, instead of Rs.55,000.

In view of the above, the award passed by the learned tribunal dated March 4, 2021 requires modification in the following manner.

Monthly income =	Rs.33,063/-
Annual income	
Rs.33,063/- x 12 =	Rs.4,03,956/-
Deduction to the extent of 1/3 =	Rs.1,34,652/-
Total =	Rs.2,69,304/-
Future prospects @ 50%	
considering the age of	

the victim below 40 years =	Rs.1,34,652/-
Total income=	Rs.4,03,956/-
Adopting multiplier 16 considering the age of the victim as 34 years (Rs.4,03,956 x 16) =	Rs. 64,63,296/-.
General damages – loss of estate (Rs.15,000) + consortium (Rs.40,000) + funeral expenses (Rs.15,000) =	Rs.70,000/-.
Total compensation, i.e. the loss of dependency =	Rs.65,33,296/-.

Admittedly, the claimants have received the awarded amount of Rs.46,33,168/- together with interest. Therefore, they are entitled to get further compensation of Rs.19,00,176/-.

As directed by the Hon'ble Supreme Court, the widow of the deceased is entitled to get consortium of Rs.40,000/-. However, learned counsel for the appellants submits, on instructions, that if the amount of Rs.40,000/- is equally disbursed between the claimants, the widow of the deceased will have no objection. Learned counsel further submits that if the awarded amount of money is disbursed between the claimants equally, none of them will have any demur in this regard.

Therefore, in view of the above, the appellants are entitled to get further compensation of Rs.19,00,176/- in equal shares. Besides, they are entitled to get interest at the rate of 6% p.a. on the further awarded amount of money i.e. Rs.19,00,176/- from the date of filing of the claim application on July 14, 2016.

Therefore, on modification of the award passed by the learned tribunal, the United India Insurance Company Limited, the first respondent herein, is directed to deposit further awarded amount of Rs.19,00,176/- and interest at the rate of 6% p.a. on this amount from the filing of the claim application i.e. from July 14, 2016 by cheque with the learned Registrar General of this court within six weeks from date.

After the deposit is made by the insurance company, the learned Registrar General shall release the awarded amount to the first and second claimants – Sangita Chakladar and Rita Chakladar (Biswas) – in equal share after being satisfied with their identity as expeditiously as possible.

With the above direction, the appeal and connected application, if any, stand disposed of.

No order as to costs.

Let a copy of this order be sent to the learned tribunal for information.

Certified copy of this order be given to the parties, if applied for, upon compliance with all requisite formalities.

[Rabindranath Samanta, J]