07.03.2022
Item No.2
Ct. No.7
CHC
(disposed of)

F.M.A.1271 of 2021
(Physical Hearing)

Santoshi Jana & ors.
Vs.
National Insurance Company Limited & anr.

Mr. Subhankar Mandal
...for the appellants/claimants

Mr. Afroze Alam
...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. Subhankar Mandal, learned advocate for the appellants/claimants that 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 been preferred impugning the judgement and award dated 4th October, 2021, passed by learned Judge, M.A.C. Tribunal & Additional District and Sessions Judge, Fast Track Court-2nd Court, Paschim Medinipur on a claim case under Section 166 of the M.V. Act, 1988, for the accidental death of deceased Bhajahari Jana, in a vehicular accident occurred on 8th December, 2016, due to rash and negligent driving of a vehicle bearing No.WB-34AG/0958.

At the time of accident deceased/victim was 35 years old having his family members. He was a fish seller by profession with an income of Rs.6,000/- per month.

Fundamentally, two points have been urged in support of this appeal.

Mr. Mandal appearing for the appellants submits that learned Tribunal has committed an error in law by not granting the future prospect to the extent of 40% in view of the settled proposition of the law.

The interest though granted by the learned Tribunal, but it was at a low rate of 4%, which should have been granted taking into account the rate of interest being granted at the moment by the financial institutions.

Mr. Alam, learned advocate representing the respondent no.1/Insurance Company submits that the learned Tribunal has rightly decided the award upon considering the pros and cons of the case, and there is no scope for revisiting the award, and no modification of the award is necessary in this case.

Mr. Alam thus strongly disputes with the grounds raised in this appeal, and submits that there is no scope for any further enhancement of the award.

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

All other points are not subject of challenge in this appeal.

Mr. Mandal has placed his reliance on a decision reported in ***(2017) 16 SCC 680*** rendered in the case of ***National Insurance Company Limited vs. Pranay Sethi & ors.*** to fortify his submission raised.

Upon perusal of the judgement, it appears that admittedly, the learned Tribunal has granted interest at the rate of 4% per annum in application of the provisions of Section 171 of the M.V. Act.

Having considered the submission of both sides, and bearing in mind the proposition of law laid down in the case of ***Pranay Sethi & ors. (Supra),*** the Court is of the view that the award needs to be modified granting future prospect to the extent of 40% as deceased/victim left this world, when he was 35 years old and a fish seller by profession with an income of Rs.6,000/- per month.

Accordingly, the award is modified, and recalculated mentioned hereinbelow so as to make the award proper and just:

Particulars	**Amount (Rs.)**
Annual Income	Rs.72,000/-
Add:	
Future prospect 40%	Rs.28,800/-
Total income	Rs.1,00,800/-
Less	
personal expenses (1/3rd)	Rs.33,600/-
Yearly income for family	Rs.67,200/-
Loss of dependency	
(Rs.67200 x 16)	Rs.10,75,200/-
Add general damages	Rs.70,000/-
Total compensation	**Rs.11,45,200/-**

The claimants/appellants acknowledge the receipt of the entire awarded amount of Rs.8,38,000/- along with interest from the Insurance Company/respondent no.1.

Therefore, the balance amount of Rs.3,07,200/- shall be paid by the respondent no.1/Insurance Company together with interest assessed at the rate of 6% per annum to the claimants within 45 days of receipt of particulars of their bank accounts, to be supplied by their counsel to the learned counsel for the respondent no.1/Insurance Company.

The payment is to be made in the proportion as already directed by the learned Tribunal directly into the bank accounts of claimants/appellants by 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.

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.)