27
07.09.2022
Ct. No.237
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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURICTION
APPELLATE SIDE

FMAT 1407 of 2012
with
IA No. CAN 1 of 2016 (CAN 9274 of 2016)

Rina Panchal & Ors.
Vs.
Basanti Bhowal & Anr.

Mr. Purna Chandra Maity
Mr. M. Ram Mandal
... For the Appellants/Claimants

Mr. Rajesh Singh
... For the Respondent/Insurance Company

This appeal is directed against the judgment passed on 5th September, 2012 by the learned Judge, City Civil Court, Calcutta in MAC Case No.71 of 2009 whereby the learned Judge awarded the compensation of Rs.3,91,000/- to be paid by respondent New India Assurance Company Limited to the appellants/claimants in disposing an application under Section 166 of the Motor Vehicles Act, 1988.

On behalf of the appellants/claimants, three witnesses were examined. From the evidence, it appears that at the time of accident which took place on 26th October, 2008 at about 10.20 hours by the involvement of a bus bearing registration no. WB-19A/4569 while he was travelling as a pillion rider in a motor cycle. At the time of accident, he was 36 years old and he would earn Rs.4,200/- per month being an employee of Sunny

Security Service at 171/A, Rash Behari Avenue, Kolkata – 700019. After the accident, the victim was taken to SSKM Hospital where the doctor declared him dead.

In this case, it is admitted position that the claimants have already received the amounts awarded to the tune of Rs.3,91,000/-. Now this appeal has been preferred for enhancement of the claim amount particularly on three grounds, i.e., enhancement of monthly income from Rs.3,000/- to Rs.4,200/-, future prospects and enhancement of general damages.

On a careful perusal of the impugned judgment, I find that the learned Judge did not rely on the evidence regarding income of the victim at the relevant point of time on the ground that the amount of income has not been substantiated by any cogent evidence.

At this stage, learned advocates appearing on behalf of the parties to this appeal contended that notional income of Rs.3,000/- would be sufficient to assess the award as there is no evidence on record showing particular income of the deceased.

So, considering the aforesaid facts and circumstances, I find that this Court is required to compute the award afresh in view of the ratio laid down in the judgment of National Insurance Co. Ltd. v. Pranay Sethi reported in (2017) 16 SCC 680 as follows:-

Monthly Income	Rs. 3,000/-
Annual Income Rs.3,000/- x 12 months	Rs. 36,000/-
Add – 40% future prospect	Rs. 14,400/-
	Rs. 50,400/-
Less – 1/3rd (Rs.16,800/-)	Rs. 33,600/-
Multiplier – ‘15’	Rs.5,04,000/-
Add General Damages	Rs. 70,000/-
Total	Rs.5,74,000/-
Less – Awarded by ld. Tribunal	Rs.3,91,000/-
ENHANCEMENT	Rs.1,83,000/-

It is submitted on behalf of the claimants that the claimants have already received the awarded amount of Rs.3,91,000/-. According to the calculation of the award, claimants are further entitled to a sum of Rs.1,83,000/- along with interest at the rate of 6% per annum till the actual payment and also the interest at the rate of 6% per annum on the amount of Rs.3,91,000/- awarded by the learned Tribunal from the date of filing till actual payment of the amount, if not paid.

The respondent/Insurance Company is directed to deposit the amount before the learned Registrar General of this Court within six weeks from the date of this order and the learned Registrar General will keep the amount in an interest bearing account.

The claimants are entitled to withdraw the amount after filing of the deficit court fees on the amount.

The learned Registrar General will release the amount on proper identification and subject to verification of the payment of deficit court fees.

With the above observation, the instant appeal, being FMAT 1407 of 2012, stands disposed of.

In view of the disposal of the appeal, the connected application, being CAN 1 of 2016 (CAN 9274 of 2016), is also 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.)