

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 1327 of 2012

Smt. Rumi Mondal & Ors.
Vs.
The Managing Director, the South Bengal
State Transport Corporation

Ms. Sima Ghosh
... For the appellants/claimants

Mr. Ayan Banerjee
Ms. Debasree Dhamali
... For the respondent SBSTC

This appeal is directed against the judgment and award passed on 28th July, 2010 by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Berhampore, Murshidabad, in M.V. Case No.575 of 2006 under Section 163A of the Motor Vehicles Act, 1988 whereby the learned Judge allowed compensation to the tune of Rs.1,20,000/-.

In short, the case of the claimants is that on 31st March, 2005, the accident took place by the involvement of a South Bengal State Transport Corporation bus, bearing registration no.WB-39/7308, which was proceeding towards Jangipur from Malda. At the time of moving with high speed, the said bus dashed Paresh Mandal, aged about 38 years, who succumbed to his injuries ultimately at Malda hospital at about 3.15 p.m.

The claim application was filed with the prayer for compensation of Rs.2,00,000/-.

In course of trial, the claimants examined two witnesses, including the person who witnessed the accident. In course of evidence, First Information Report and police report were admitted in evidence as Ext.-1 and Ext.-2.

After considering the evidence on record and the documents, the learned Judge granted award of Rs.1,20,000/- in total.

From the award passed by the learned Tribunal, I find no calculation for compensation for third party fatal accident under the Second Schedule of the Motor Vehicles Act.

It is undisputed that Paresh Mandal died in an accident by the involvement of the offending bus of SBSTC on 31st March, 2005 and at the relevant point of time he was 38 years of age. Though no evidence has been adduced with regard to the income of the victim, but considering minimum wages, I have no hesitation to hold that his income was Rs.3,000/- per month. The calculation of compensation should be as follows:-

Gross Monthly Income	Rs. 3,000/-
Annual Income (Rs.3,000/- x 12)	Rs. 36,000/-
Less: 1/3 rd Deduction for personal expenses	Rs. 12,000/- Rs. 24,000/-
Multiplier 16 (Age 38 yrs.) (Rs.24,000/- x 16)	Rs.3,84,000/-
Add: General Damages	Rs. 9,500/-

Total	Rs.3,93,500/-
Less – Awarded by Id. Tribunal and already Payment received by the claimants	<u>Rs.1,20,000/-</u>
ENHANCEMENT	Rs.2,73,500/-

In the aforesaid view of the matter, it is seen that the appellants/claimants are entitled to further enhanced amount of Rs.2,73,500/- along with interest @ 6% per annum from the date of filing of the claim petition till the actual payment.

The Managing Director, South Bengal State Transport Corporation, is directed to deposit the enhanced amount of Rs.2,73,500/- along with interest @ 6% per annum from the date of filing of the claim petition till the actual deposit of the amount before the learned Registrar General of this Court within eight weeks from the date of this order.

The appellants/claimants will be entitled to withdraw the enhanced amount with interest subject to payment of *ad valorem* court fees on the enhanced amount.

The learned Registrar General will disburse the amount among the appellants/claimants in the manner as prescribed in the order of the learned Tribunal on proper identification and subject to verification of the payment of *ad valorem* court fees on the enhanced amount by the appellants/claimants.

With the above observation, the appeal, being FMA 1327 of 2012, is disposed of.

All pending applications, if any, also stand disposed of accordingly.

Records of the learned Tribunal be transmitted back immediately.

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

(Bibhas Ranjan De, J.)