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

FMA 860 of 2012
with
IA No. CAN 3 of 2015 (CAN 4586 of 2015)

Smt. Chanchala Nandi
Vs.
United India Insurance Company Limited Ors.

Mr. Nini Gopal Chakraborty
... For the appellant/claimant

Mr. Rajesh Singh
... For the respondent no.1/Insurance Co.

This appeal is directed against the judgment and award dated 22nd May, 2009 passed by the learned Judge, Motor Accident Claims Tribunal, 1st Court, Purulia, in connection with MAC Case No.7 of 2008 whereby the learned Tribunal awarded compensation to the tune of Rs.89,500/- along with interest @ 6% per annum under Section 171 of the Motor Vehicles Act.

The claim petition under Section 163A of the Motor Vehicles Act, 1988 was filed by the legal heirs of the deceased Gobardhan Nandi, who died in a motor accident which took place on 5th October, 2007 at about 2.00 p.m. while Gobardhan Nandi was proceeding to his native village Sanka by riding a by-cycle through Anara-Raghunathpur pitch road and at that time one Tata Indica car, bearing registration no.WB-56B/5848, coming with very high speed from Anara side dashed the deceased from behind. As a result, said Gobardhan Nandi sustained severe injury on his person. He was immediately taken to R.N. Pur S.D. Hospital, then shifted to Bankura Sammelani Medical College and Hospital and finally referred to N.R.S. Medical College and Hospital and admitted there from 6th October, 2007 to 11th October, 2007 when he succumbed to his injuries.

United India Insurance Company Limited contested the case by filing written objection denying all material averments of the claim petition contending, inter alia, that vehicle violated the policy conditions having no valid permit for which the Insurance Company is not liable to pay any compensation.

To prove the case, widow of the deceased examined herself as PW-1 who corroborated the entire contents of the claim petition and claimed compensation to the tune of Rs.2,73,500/-. In course of her evidence, certified copy of First Information Report, charge sheet, seizure list, post-mortem report and insurance policy were admitted in evidence and marked as exhibits.

After considering the entire evidence on record, the learned Tribunal awarded compensation to the tune of Rs.89,500/- along with interest @ 6% per annum under Section 171 of the Motor Vehicles Act.

In course of argument, Mr. Nani Gopal Chakraborty, learned advocate, on behalf of the appellant/claimant has submitted that notional income was assessed at Rs.15,000/- per annum by the learned Tribunal in lieu of Rs.3,000/- per month and accordingly, he prays for modification of the compensation.

Mr. Rajesh Singh, learned advocate, on behalf of the respondent no.1/Insurance Company has submitted that the claim case arose out of an application under Section 163A of the Motor Vehicles Act, 1988 and, therefore, the income of the deceased cannot be assessed more than Rs.15,000/- per annum as per Second Schedule of the Act.

Considering the entire facts and circumstances of this case as well as the nature of legislation, I am of the humble opinion that the income of the deceased should be considered as Rs.2,500/- per month to compute the compensation after applying multiplier 8 in terms of age of the deceased as it appears from the post-mortem report in absence of any cogent document. Accordingly, I modify the compensation hereunder:-

Monthly Income	Rs. 2,500/-
Annual Income (Rs.2,500/- x 12)	Rs. 30,000/-
Less: 1/3rd Deduction (personal expenses)	Rs. 10,000/-
	Rs. 20,000/-
Multiplier by 8 (as per Second Schedule)	X 8
	Rs.1,60,000/-
Add: General Damages	Rs. 9,500/-
	Rs.1,69,500/-
Less: Awarded by ld. Tribunal & received	Rs. 89,500/-
ENHANCEMENT	Rs. 80,000/-

For the reasons, it is seen that the appellant/claimant is entitled to the total compensation to the tune of Rs.1,69,500/-. It is reported that the appellant/claimant has already received Rs.89,500/- as awarded by the learned Tribunal.

Therefore, the appellant/claimant is entitled to the balance compensation amount of Rs.80,000/- along with interest @ 6% per annum from the date of filing of the claim petition, i.e., on 21st January, 2008 till the deposit of the amount.

Accordingly, the respondent no.1/United India Insurance Company Limited is directed to deposit the enhanced compensation amount of Rs.80,000/- along with interest @ 6% per annum from the date of filing of the claim petition, i.e., on 21st January, 2008 till the actual deposit of the amount before the office of the learned Registrar General of this Court, within six weeks from the date of this order.

The appellant/claimant is entitled to withdraw the balance compensation amount with interest.

The learned Registrar General is requested to disburse the amount with interest to the appellant/ claimant on proper identification and proof.

With the above observations, the appeal, being FMA 860 of 2012, is disposed of.

All pending applications, if there be any, stand disposed of.

Records of the learned Tribunal along with a copy of this order 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.)