

28.07.2023
SL No.9
Court No. 551
Ali

**IN THE HIGH COURT AT CALUTTA
Civil Appellate Jurisdiction**

FMA 545 of 2012

**Aurobinda Manna
Vs.**

United India Insurance Company Ltd.

Mr. Ashique Mondal
..... for the appellant-claimant.

Mr. Sanjay Paul
...for the respondent-insurance Co.

The report is received from the Superintendent Cum Vice Principal of Midnapore Medical College & Hospital, peruse the report.

The instant appeal was preferred against the judgment dated 22nd January, 2010 passed by the learned Judge, 6th Bench, City Civil Court, Calcutta, in Motor Accident Claims Case No. 281 of 2008.

The main grievance of the present appellant before this court that the learned tribunal has not considered the certificate of Doctor who deposed before the learned tribunal as PW-2 and stated that the appellant is suffering 40% permanent disability. Learned tribunal in assessing the compensation has not placed any reliance upon the disability certificate and awarded only sum of Rs. 60,000/- towards the cost of medical treatment and pain and suffering.

Hence this appeal.

During the hearing of the appeal the appellant was directed to appear before the Board constituted by the Superintendent, Midnapore Medical College & Hospital. Consequently, report reflects that the appellant appeared on 25th July, 2023 before the Board constituted by the Superintendent. The report is received.

It appears from the report that there may have no locomotor disability in the person of the appellant but there are some discomfort stiffness in the spine. Considering the fact, it appears to me that the accident happened in the year 2006 now in the year 2023; the appellant is also suffering some stiffness in the Spine. Such infirmity in the person of the appellant must have affected his earning capacity. Such discomfort or he must not have faced if he had not suffered the alleged accident. Thus, I think, it necessary to pass appropriate order to justify the claim of the appellant.

Considering the same it appears to me that the learned tribunal has only awarded Rs. 60,000/- towards the compensation of this case which appears to me meager and not justified in the attending facts and circumstances of this case. In my view, the compensation of this case should be Rs. 2,00,000/-. The award has already been received to the tune of Rs. 60,000/- the rest amount

of Rs. 1,40,000/- has to be disbursed by the insurance company.

The insurance company is directed to pay the balance amount of Rs. 1,40,000/- alongwith interest @ 6% per annum from the date of filing of the claim application i.e. from 28.03.2008 within eight weeks from the date of passing of this order through the office of the learned Registrar General, High Court, Calcutta. On such deposit the claimant-appellant is at liberty to withdraw the same from the office of learned Registrar General, High Court, Calcutta, subject to the ascertainment of payment of requisite Court Fees.

The instant FMA is disposed of.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)

