

**FMA 792 of 2013
With
CAN 3 of 2019 (Old CAN No. 2250 of 2019)
With
CAN 4 of 2022**

**The Oriental Insurance Co. Ltd.
Vs.
Jagat Singh Dugar & Ors.**

Mr. Sanjoy Paul

... ... for the appellant

Mr. Falguni Bandyopadhyaya

Ms. Riya Ballav

Ms. Nandini Sharma

... ... for the respondents

The instant appeal is preferred by the insurance company against the award dated 23rd March, 2006 passed by the learned Judge, City Civil Court, 2nd Bench, Calcutta in MJC Case No.262 of 2002.

The brief facts of the case is that the present respondents being the claimants preferred the claim application under Section 166 of the MV Act before the learned Tribunal for getting compensation amounting to Rs.10,00,000/- on the ground that their predecessor died in road traffic accident. The case was contested by the insurance company by filing written statement. After hearing both the parties and after considering the materials and evidences on record the learned Tribunal has awarded the sum of Rs.6,16,171/- in favour of the

claimants. The insurance company preferred this appeal against the said award.

Learned advocate for the insurance company submitted before this Court that the impugned award passed by the learned Tribunal is erroneous. Learned Tribunal has not considered the facts and circumstances of this case and came to an erroneous finding. He also pointed out that the impugned award is exorbitant. He also pointed out that the deceased was a businessman so the entire assets and properties of business was devolved upon his legal heirs. Thus there is no loss of earning in this case. He pointed out that the learned Tribunal has not considered the factum of this particular issue and pass exorbitant award. So he prayed for setting aside the impugned order.

Learned advocate for the claimants submitted before this Court that the claim application was filed claiming the compensation amount of Rs.10,00,000/- after considering the materials on record learned Tribunal has only awarded Rs.6,16,171/-. Learned Tribunal has considered the every pros and cons of the case and after considering the evidences on record he is awarded the same. There is no infirmity in the award. Learned Tribunal has pass the reasonable order. Thus there is no chance to vacate this award.

Heard the learned Advocates. Perused the materials on record. In considering the facts and circumstances of this case, it appears to me that the learned Tribunal has assessed the compensation after considering the annual income of the deceased to be Rs.70,000/- , multiplier was adopted correctly to 13. One third of the income was also deducted towards the personal expenses.

Considering the facts and circumstances and considering the entire aspect I find nothing meritorious to entertain the grounds of the appeals. It further appears to me that learned Tribunal has considered the interest part also. Thus, I find no infirmity in the order itself. Accordingly, there is no chance to interfere with the impugned award.

Thus, the instant appeal is hereby dismissed learned advocate for the insurance company submitted before this Court that the award has already been deposited with the office of the learned Registrar General. The award must have carried some interest so the claimants/respondents are at liberty to withdraw the same along with accrued interest, if any, from the office of the learned Registrar General according to the prevalent rules subject to ascertainment of payment of requisite Court fees.

The instant FMA is dismissed.

All connected applications, if any, stand disposed of.

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

(Subhendu Samanta, J.)