

05.10.2023
SL No.16
Court No. 551
Ali

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

**FMA 960 of 2011
IA No: CAN/1/2018 (Old No:CAN/6291/2018)**

**Jahanara Bewa & Ors.
Vs.
United India Insurance Co. Ltd. & Ors.**

Mr. Saidur Rahaman

...for the appellants.

Mr. Sanjay Paul

...for the respondent.

The instant appeal has been preferred against the judgment and award dated 30th June, 2010 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Berhampore, Murshidabad in M.V. Case no. 303 of 2004 under Section 163-A of the MV Act.

The brief fact of the case is that the present appellants being the claimants filed an application before the learned tribunal for getting compensation under Section 163-A of the M.V. Act on the ground that their predecessor was died in a road traffic accident. The learned tribunal heard the claimant as well as the insurance company and awarded a compensation amounting to Rs.1,32,000/- in favour of the claimants.

Being aggrieved by and dissatisfied with the said award the present appeal has been preferred.

During the course of argument of this case it came to my knowledge that another claimant has

preferred an appeal before this court and which was decided by this court vide FMA 982 of 2011. The present victim is the another victim of the self-same accident wherein two vehicles were involved. On the earlier case i.e. FMA 982 of 2011 this court has already directed both the vehicles are jointly liable for the said accident. Consequently, both the insurance companies are directed to pay the compensation and in turn they are at liberty to recover the same from the owner by virtue of decision of the Hon'ble Supreme Court passed in **Swaran Singh**.

The learned advocates appearing on behalf of the claimants as well as the insurance company submits that the same principle may be adopted here.

Heard the learned advocate perused the materials on record also perused the judgment passed by this court in FMA 982 of 2011. Considering the same, it appears to me that the victim of the present case also died in the same accident, accordingly, same ratio is to be followed in this appeal.

In considering the just and proper compensation of this case it appears to me that the deceased died in a road traffic accident in the year 2002 and he was the sole bread earner of their family thus the income of the deceased should be

calculated in terms of Rs. 2,500/- per month. At the time of accident, the deceased was within the age group of 45-50 years thus the application multiplier would be 13. The claimants are also entitled to the general damages amounting to Rs. 9,500/-.

In considering the just and proper compensation of this case, the impugned award passed by the learned tribunal is hereby modified and recasted as follows:-

Monthly income of the deceased Rs. 2,500/- per month, the annual income Rs. 30,000/-. $\frac{1}{3}$ rd is deducted towards his personal expenses i.e. after deducting Rs. 10,000/- the yearly dependency comes to Rs. 20,000/-. The applicable multiplier of this case is 13. So after adopting the multiplier the award comes to Rs.2,60,000/- The general damages is Rs.9,500/- so after adding all heads the award comes to Rs.2,69,500/-

The insurance companies are directed to pay the compensation alongwith interest @ 6% per annum from the date of filing of the claim i.e. from 25.08.2004 within ten weeks from the date of passing of this order.

Both the insurance companies, namely, the United India Insurance Co. Ltd. and The Oriental Insurance Co. Ltd. are directed to pay the 50% of the compensation each within ten weeks from the date of passing of this order with the office of the

learned Registrar General High Court, Calcutta. On such payment claimants are at liberty to receive the same according to the prevalent rules subject to ascertainment of payment of requisite Court Fees.

The office of the learned Registrar General, High Court, Calcutta is directed to pay the compensation to the claimants vide five equal account payee cheques.

After such payment being made the insurance companies are at liberty to recover the same from the owner of the vehicle according to the Law laid down by the Hon'ble Supreme Court passed in **Swaran Singh**.

The instant FMA 960 of 2011 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.)