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FMA 627 of 2007

Smt. Radha Rani Pal

Versus
The Regional Manager, The Oriental Insurance
Company Ltd. & Anr.

Mr. L. M. Ghosh, ... For the appellant

Mr. Parimal Kr. Pahari. ... For the respondents

The appeal is directed against the judgment and award passed by learned Motor Accident Claim Tribunal, 2nd Court, North 24 Parganas in connection with Motor Accident Claim Case No. 71 of 2000, under Section 166 of the Motor Vehicle Act, whereby learned Tribunal awarded a sum of Rs.50,000/-/- as compensation.

The application under Section 166 was filed by the mother of the deceased Subhasis Pal, who died in a motor accident on 29.01.1999 at about 4.30 PM by the involvement of one lorry bearing No. WMK-1668. At the relevant point of time, the deceased, while returning home, stopped for cup of tea at Bhatpara Asubabu Line. At that time one lorry bearing No. WMK-1668 was proceeding towards Naihati with high speed and reckless manner knocked down the victim Subhasis Pal. As a result victim sustained injury and was shifted to Naihat State General Hospital where he succumbed to injuries.

At the time of accidental death he used to earn Rs.2500/- per month from his business and that is why this claim petition was filed with a prayer for compensation to the tune of Rs.3,00,000/- .

Owner of the vehicle did not contest but Oriental Insurance Company Limited/respondent no.1 contested the claim petition by filing written objection denying all materials averment of the claim petition, contending inter alia, that claimant is not entitle to any compensation as prayed for.

To prove the claim, claimant examined herself as PW-1 and one Ranjit Chatterjee as PW-2. In course of their evidence, FIR, Charge-sheet, Insurance Policy, Postmortem Report were filed before the Tribunal.

Learned Tribunal after considering the entire evidence on record awarded as sum of Rs.50,000/- under Section 166 of the Motor Vehicle Act, considering the award of Rs.50,000/- towards no fault liability under Section 140 of the Motor Vehicle Act, 1994.

In course of argument none of the learned advocate appearing on behalf of the parties to this appeal argued on the issue of accidental death of Subhasis Pal. However, it appears from the evidence of PW-1, mother of the deceased, that on 29.10.1999, her son Subhasis Pal died in motor accident and at the relevant point he used to earn Rs.2500/- per month from his business and he was aged about 19 years. PW-2 testified that he saw the

lorry bearing No. WMK-1668 to cause accident due to rash and negligent driving. He further testified that in the accident Subhasis pal was knocked down by the said lorry and he was hospitalized.

He has specially testified that driver of the lorry is responsible for the accident.

On careful perusal of the evidence PW-1 and PW-2 together First Information Report, Charge-sheet, I find no any reason to disbelieve the accidental death of Subhasis Pal by the involvement of the lorry bearing No. WMK-1668 which was duly insured with Oriental Insurance Company Limited.

On careful perusal of the entire evidence, on the point of income I find claimant is entitled to the compensation after applying multiplier and income of the deceased at the time of death.

In view of the aforesaid facts and circumstances, I find it necessary to modify the award as follows:

Monthly Income	= Rs.2000/-
Annual Income (Rs.2000x12)	= Rs.24,000/-
Deduction 50% of Rs. 24000/- (12,000x 50%)= 12,000/-	=Rs.12,000/-
Multiplier 18 (12,000/- x 18)	=Rs. 2,16,000/-
Add Future Prospect 40% (2,16,000x 40%) = 86,000/-	=Rs. 86,000/-
	Rs.3,02,000/-
Add General Damages	<u>Rs. 70,000/-</u>
Total Compensation of	Rs.3,72,000/-

Therefore, claimant is entitled total compensation of Rs. 3,72,000/- subject to the payment of ad valorem

court fees on the amount of Rs.72,000/- before the Tribunal.

The claimant has already received 1,00,000/- from the Tribunal.

So claimant is entitled to rest amount of Rs. 2,72,000/- along with @6% per annum.

Respondent/Insurance Company is directed to pay the rest amount of Rs.2,72,000/- along with interest @6% from the date of filing of the claim application till the deposit of the same before the office of the Registrar General

Respondent/Insurance Company is directed to deposit the amount along with 6% per annum within six weeks from the date.

Registrar General is requested to disburse the amount to the claimant on proper identification and proof of identity.

With the aforesaid observation, the **FMA 627 of 2007** stand disposed of.

Pending applications, if there be any, stand also disposed of.

Let a copy of this order along with Tribunal records shall be transmitted back to the learned Tribunal immediately.

Urgent certified copy of this order, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with the all necessary

formalities.

(Bibhas Ranjan De, J.)