

03.07.2023
SL No.20
Court No. 551
Ali

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

FMA 3597 of 2013

**Budhan Das
Vs.
The New India Assurance Co. Ltd. & Anr.**

Ms. Sima Ghosh
...for the appellant-claimant.

Mr. Animesh Das
...for the respondent No. 1 NIAC Ltd.

The instant appeal is preferred against the award dated 30th day of July, 2009 passed by the Motor Accident Claim Tribunal, Additional District Judge, Murshidabad in M.V. Case No. 556 of 2006 dated 30th Day of July, 2009.

Learned advocate for the appellant-claimant submitted before this court that the instant appeal is preferred on the basis of single ground. Learned tribunal has not considered the monthly income of the injured claimant properly the income of the claimant was taken to be Rs.15,000/- per year which is palpably erroneous. The income of the claimant should be taken at least Rs.3,000/- per month.

Learned advocate for the respondent-Insurance Company submitted that the impugned judgment passed by the learned tribunal is not incorrect. Learned tribunal has considered the occupation and income of the claimant and passed

the impugned judgment. He further pointed out that the claimant has not submitted any cogent document to prove his income before the learned tribunal, thus; there is no merit in the instant appeal to entertain.

Heard the learned advocates and perused the materials on record. On the claim application, it is stated that the claimant was a rickshaw van puller and his monthly income was stated as Rs.3,000/-. During the evidence, the claimant stated that he used to earn Rs.4,000/- to Rs.4,500/ per month. It is, true being a van rickshaw padler there should not have any document to substantiate his income but in considering the judgment and views of this court in several matters the income of a person who suffered an accident up to the year 2010, the notional income should be taken as Rs.3,000/- per month. Considering the same, I find that there is merit to entertain the instant appeal. Accordingly, the award passed by the learned tribunal is modified herein. The monthly income of the claimant be taken as Rs.3,000/-.

Learned advocate for the appellant has handed over a draft assessment of computation which appears to me helpful. Thus, the just and proper compensation of this case is as follows:-

Calculation of compensation

1.Monthly IncomeRs.3,000/-

2. Annual Income

...(Rs.3,000/- X 12)..... Rs.36,000/-

3. Multiplier apply 16

(Rs.36,000/-X 16).....Total Rs.....Rs.5,76,000/-

4. Injury assured 30%.....Rs.1,72,800/-

Pain and suffering..... Rs. 5,000/-

Medical ExpensesRs.15,000/-

Total.....Rs1,92,000/-

Already receivedRs 85,000/-

Balance amountRs.1,07,800/-

The claimant has already received awarded amount of Rs. 85,000/- thus the balance amount of Rs.1,07,800/- which shall carry interest @ 6% per annum from the date of filing of the claim application.

The Insurance Company is directed to pay the balance amount alongwith interest through the learned Registrar General, High Court, Calcutta within eight weeks from the date of passing of the order.

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.)

