

28.08. 2023
item No.12
n.b.
ct. no. 551

FMA 869 of 2013

Smt. Tanushree Bera & Ors.
Vs.
National Insurance Co. Ltd. & Anr.

Mr. Jayanta Kumar Mondal
.....for the appellants.
Mr. Deb Narayan Roy,
.... For the respondent/Insurance Company.

This appeal has been preferred against the judgment dated 19th February, 2011 passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court at Paschim Medinipur in M.A.C. Case No.387 of 2009.

The claimants are the appellants herein. The appellants have preferred this appeal against an award, wherein a sum of Rs.5,85,500/- was awarded in favour of the claimant.

Learned advocate for the appellant submitted that the general damages as calculated by the learned Tribunals is not proper and the claimants are entitled to get a sum of Rs.77,000/- towards the general damages and future prospects as directed by the Hon'ble Supreme Court in **Pranay Shetty**.

Only these two grounds were challenged before this Appellant Court.

Learned advocate for the Insurance Company submitted that the learned Tribunal has awarded the

compensation observing the necessary particulars and the merits of the case, so there is no chance of interference with the instant appeal.

Heard the learned advocates. It appears that the prayer in the appeal as made by the claimants are very innocuous. The general damages of a case filed under Section 166 of the M.V. Act has been specifically guided by the Constitutional Bench of Hon'ble Supreme Court in **Pranay Shethi**. In this Case, the Hon'ble Supreme Court has observed that the general damages would be 70,000/-

Learned advocate for the appellant submitted that the 10% should be escalated as three years has already been passed after the judgment passed the Hon'ble Supreme Court in **Pranay Shetty**.

However, the submission of the learned advocate for the appellant appears to me justified. The instant appeal has been preferred against the judgment passed by the learned advocate wherein an award has already been passed including the general damages. In that score, I find no justification to enhance general damages beyond 70,000/-. Accordingly, in this case, the general damages should be 70,000/- instead of Rs.9,500/-.

The claimant is also entitled to get the future prospects according to the judgment of Hon'ble Supreme Court in **Pranay Shetty**, which would be 40% of his established income. So, in considering the entire aspect, the award

passed by the learned Tribunal need be modified. The compensation recuested is below:

1. Yearly income	Rs.54,000/-
2.Future Prospect 40%	<u>Rs.21,600/-</u>
	Rs.75,600/-
3. Less 1/3 rd for personal exp.	<u>Rs.25,200/-</u>
	Rs.50,400/-
4. Multiplier 16 (50,400X16)	Rs.8,06,400/-
5. Add general damages	<u>Rs.70,000/-</u>
	Rs.8,76,400/-
6. Less award of Tribunal already paid.	<u>Rs.5,85,000/-</u>
	Rs.2,90,000/-

The Insurance Company is directed the balance amount of Rs.2,90,000/- to the claimants along with 6% interest per annum from the date of filing of the application i.e. from October 26,2009.

The Insurance Company is further directed to pay the compensation within eight weeks of this order with the officer of the learned Registrar General, High Court, Calcutta. On such deposit, the claimants are at liberty to receive the same according to the prevalent Rules.

Accordingly, FMA 869 of 2013 is disposed of.

Connected applications, if any, are also disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)