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02.03.
2023

FMA 1049 of 2013

**Rekha Das & Ors.
Vs
National Insurance Company Ltd. & Anr.**

Mr. Uday Sankar Chattapadhyay,
... For the applicants/claimants

Mr. Rajesh Singh
... For the respondent no.1./Insurance Co.

This appeal is directed against the judgment and award passed by Motor Accident Claim Tribunal , Fast Track 1st Court, Burdwan in connection with MAC Case No. 130 of 2011/262 of 2011 under Section 163A of the Motor Vehicle Act, 1988, whereby learned judge awarded compensation to the tune of Rs. 99,500/-.

One claim petition was filed by the legal representatives of the deceased Tarak Das, who died in an accident by the involvement of one vehicle (lorry) bearing No. WB41C/4433 on 5th July, 2011. An application of compensation of Rs. 4,70,000/- has been filed by the claimants.

Insurance company contested the claim petition by filing written objection denying all materials averments of the claim petition contending, inter alia, that claimants are not entitled to any compensation.

To prove the case, one of the claimants, widow of deceased was examined as PW-1 and one son of the

deceased as PW-2.

PW-1, in course of her evidence, corroborated the entire claim petition. She stated that her husband was a Rickshaw Puller having income of Rs.3,300/- per month.

PW-2 claimed himself to be the eye-witness to the accident. He testified that on 5.7.11 at about 11.00 am, the lorry bearing No. WB41C/4433 ran over his father, who was sitting on his Rickshaw at the relevant point of time.

In course of evidence a good number of documents were admitted in evidence including the FIR, Charge-sheet, Postmortem Report, Insurance Policy, Voter Identity Card of the deceased etc.

This appeal has been preferred on the point of quantum of compensation.

Learned advocate appearing on behalf of the claimants has submitted that claimants have already received the amount of compensation of Rs.99,500/- from the Tribunal.

None of the learned advocate on behalf of the parties to this appeal advanced any argument with regard to the accidental death of Tarak Das by the involvement of lorry bearing No. WB41C/4433 duly insured with National Insurance Company Ltd.

Learned advocate on behalf of the claimants submits that notional income should be fixed at

Rs.3000/- per month instead of Rs.1,500/- as it arose out of an accident happened on 5.7.2011.

Learned advocate appearing on behalf of the Insurance Company supported the judgment passed by the learned Tribunal.

Considering all the evidence available on record as well as documents, I am of the humble opinion that notional income of the deceased (Tarak Das) should be Rs.3000/- per month in terms of his profession, and also the number of family members.

In that case I need to modify the award as follows:

1. Monthly Income	= Rs.3,000/-
2. Annual Income (Rs.3,000/- x12)	= Rs.36,000/-
3. Deduction 1/3 (Rs.36,000- 1/3)	= Rs. 24,000/-
4. Multiplier is 8 (24000 x8)	= Rs.1,92,000/-
5. Add General damages (Rs.9,500/-)= (Rs.1,92,000/- + Rs.9500/-)	Rs. 2,01,500/-
6. Less awarded compensation	<u>Rs. 99,500/-</u>
Total Enhanced amount	Rs. 1,02,000/-

It is not disputed that claimants have already received compensation to the tune of Rs.99,500/- from the Tribunal and therefore, claimants are entitled to balance amount of Rs.1,02,000/- along with interest @6% per annum from the date of filing of the claim petition, i.e. on 8.9.11 till the deposit of the amount.

Accordingly, the respondent no.1/National

Insurance Company Ltd. is directed to deposit the enhanced compensation amount of Rs. 1,02,000/- along with interest 6% per annum from the date of filing of the claim petitioner i.e.8.9.11 till the actual deposit of the amount before the office of the learned Registrar General of this Court, within six weeks from the date of this order.

The learned Registrar General is requested to disburse the entire amount with interest to the claimants in equal share on proper identification and proof.

With the above observation, the appeal being **FMA 1049 of 2013** is disposed of.

All pending applications, if there be any, stands disposed of.

Records of the learned Tribunal along with a copy of this order be transmitted back immediately.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)