

17.11. 2023

item No.6

n.b.

ct. no. 551

FMA 749 of 2014

with

IA No. CAN 1 of 2016(Old No. CAN 917 of 2016)

+

CAN 2 of 2023

Majera Bibi

Vs.

The Oriental Insurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy,

.... For the appellant.

Ms. Gupta Das Mukherjee,

.... For the respondent.

The instant appeal has been preferred against the judgment and order dated September 16, 2013 passed by the learned Judge, Motor Accident Claims Tribunal, Asansol, Paschim Burdhaman, in M.A. C. case No. 65 of 2010/02 of 2009 under Section 163A of MV. Act.

The brief fact of the case is that the present appellant being the claimant has filed one application under Section 163A of M.V. Act before the learned Tribunal for getting compensation on the ground that his son was died in a road traffic accident due to involvement of the offending vehicle duly insured under the policy of the Insurance Company. The Insurance Company contested the matter before the learned Tribunal.

After hearing the parties, learned Tribunal has dismissed the claim case on the ground that there are no documents before the learned Tribunal to hold that the offending vehicle was duly insured under the policy of the

Insurance Company at the time of the accident. The claimant has preferred this appeal before this court along with an application of CAN 2 of 2023. By filing the application, the appellant wanted to introduce some additional evidence according to the provision of order 41 rule 27 of the CPC

It is the submission of the learned advocate for the appellant that those documents could not be produced before the learned Tribunal. Accordingly, learned Tribunal has passed the erroneous order.

Heard the learned advocates and perused the CAN 2 of 2023, it appears that the CAN 2 of 2023 annexed the certificate of registration and route permit of the offending vehicle.

During the course of hearing, one report is called for from the respondent/Oriental Insurance Co. Ltd. to ascertain the fact whether the offending vehicle was insured under the policy of the Insurance Company at the time of alleged accident. One report was submitted by the learned advocate for the appellant contending inter alia that the offending vehicle was new vehicle and before registration of the same, the policy was entered into with the Insurance Company; the chasis number and the engine number of the said vehicle is tallied with the insurance policy.

Heard the learned advocates and perused the report submitted by the Divisional Manager, Jamshedpur.

Considering the entire circumstances, it appears to me that the offending vehicle was well covered under the policy of the Insurance Company at the time of the alleged accident. On that score, the observation of the learned Tribunal appears to be erroneous and it needs to be set aside.

To consider just and proper compensation of this case, it appears to me that application was filed under Section 163A of the M.V. Act stating the monthly income of the deceased Rs.3,300/-.

Considering the facts and circumstances of the case, the monthly income of the deceased should be calculated of Rs.3,000/- per month. So, the just and proper compensation is hereby assessed as follows:

1. Monthly income	Rs.3,000/-
2. Yearly income	Rs.36,000/-
3. Less 1/3 rd deduction	Rs.24,000/-
4. Multiplier 17(age 32 years) (24,000 X 17)	Rs.4,08,000/-
5. Add General Damages	<u>Rs.4,500/-</u>
Total	Rs.4,12,500

The Oriental Insurance Co. Ltd. is directed to pay the compensation along with 6% interest per annum from the date of filing of the claim application i.e. from January 2, 2009.

The Insurance Company is further directed to pay the compensation through the office of the learned Registrar General, High Court, Calcutta within six weeks

from the date of the order. On such deposit, the claimant is at liberty to receive the same according to the prevalent rules subject to ascertainment of payment of deficit court fees if any.

Accordingly, FMA 749 of 2014 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.)