

15.12. 2023
item No. 19 & 20
n.b.
ct. no. 551

FMAT(MV) 103 of 2023
with
IA No. CAN 1 of 2023
+
CAN 2 of 2023(Not found)
National Insurance Co. Ltd.
Vs.
Sumitra Mandi(Widow) & Ors.
With
COT 17 of 2023
Sumitra Mandi(Widow) & Ors.
Vs.
National Insurance Co. Ltd.

Mr. Sanjay Paul,
Ms. Jaita Ghosh,
.....for the appellant.
Mr. Subhankar Mondal,
...for the respondent.

The instant appeal has been preferred against the Judgment and award dated September 12, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track 2nd Court, Paschim Medinipur in Motor Accident Claim Case No. 111 of 2021.

The brief fact of the case is that the present appellant being the claimant filed an application before the learned Tribunal under Section 166 of the M.V. Act for getting compensation on the ground that their predecessor was died in a road traffic accident due to rash and negligent driving of the offending vehicle duly insured under the policy of the Insurance Company. The claim case was contested by the Insurance Company.

After heading the parties and after receiving the evidences, the learned Tribunal has awarded a sum of Rs.61,04,257/- along with 4% interest per annum in favour of the claimant.

Being aggrieved by and dissatisfied with the same award, the insurance Company has preferred the instant appeal.

The claimant also filed one cross appeal against the instant appeal. Heard the learned advocate for the parties at length, it appears that only single point is involved to determine by this appellant Court.

It is the submission of the learned advocate for the appellant that the monthly income of the deceased was calculated to be Rs.64,780/- by virtue of pay slip presented before the learned Tribunal. The deceased was an employee of Government of West Bengal. Accordingly, specific pay slip has been issued from the concerned department. From the pay slip, it reveals that no tax component was mentioned for the month of September, October and November, 2020. However, Learned advocate for the appellant submits that the income of the deceased comes under the income tax slab and the income is taxable income. So, the tax component is liable to be deducted from the income of the deceased for the purpose of calculation of just and proper compensation of this case.

Learned advocate appearing on behalf of the respondent raised strong objection regarding the deduction towards tax components. In considering just and proper compensation of this case that tax component has to be deducted. Let the tax be calculated according to the slab of the income tax for the relevant assessment year. It appears that the yearly income of the deceased was calculated to Rs.64,780/- X 12 = Rs.7,77,360/-. There should be some deductions including deduction under chapter 6A and towards the professional tax. Therefore, the total tax relief of the deceased would be Rs.1,50,000/- + Rs. 52,440/-=2,02,400. So, the taxable income of the deceased would be Rs.7,77,360-Rs.2,2,400/-= Rs.5,74,960/-. Accordingly to the slab Rs.2,50,000/- is non-taxable. From Rs.2,50,000/- to Rs.5,00000/- , the tax would be 5% (i.e. Rs.12,500) and from Rs.5,00000/- to Rs.10,00000/-, the tax slab is 20% (i.e. Rs.14,992). So, in this case, the total income tax of the deceased comes to Rs.12500+14,992=27,492/-. The professional tax would be added as it was already deducted. Accordingly, the total tax components of the deceased comes to Rs.29,892/-

The learned Tribunal has computed the yearly income of the deceased to be Rs.7,77,360/-. But in this case, the actual yearly income less the tax component would be Rs.7,47,468/-.

Learned advocate for the respondent/claimant submits that the learned Tribunal has awarded 4% interest in this case. The interest portion is very meager one. So, at least 6% interest may be given. He also submits that by virtue of direction of the Hon'ble Supreme Court in **Pranay Shetty**, the general damages of Rs.70,000/- along with 10% is required to be added after every three years. The deceased died in the year 2020, so, the claimants are entitled to get more than 10% over the general damages to Rs.70,000/-

Considering the submission of the learned advocate for the parties and also considering the income tax slab, it appears that the award passed by the learned Tribunal need be modified.

1. Annual income	Rs.7,47,468/-
2. Less 1/4 th deduction	<u>Rs.1,86,867/-</u>
Personal Exp	Rs.5,60,601/-
3. Add 15 % future Prospect	<u>Rs.84,090/-</u>
	Rs.6,44,691/-
4. Multiplier 9	Rs.58,02,219
5. Add General Demises	<u>Rs.77,000/-</u>
Total Compensation	Rs.58,79,219/-

The total compensation comes to Rs.58,79,219/-. The Insurance Company is directed to pay the awarded amount together with 6% per annum for the date of filing of claim case within six weeks from the date of passing of this award through office of the learned Registrar General, High Court, Calcutta. On such deposit, the office of the learned Registrar General, High Court, Calcutta shall

disburse the amount in favour of the claimants by equal four account pay cheque in the name of the claimants, according to the prelevant rules subject to ascertainment of payment of deposit court fees if any.

After such deposit being made by the Insurance Company, the Insurance Company is at liberty to receive the already statutory deposited amount of Rs.25,000/- from the office of the Registrar General, High Court, Calcutta along with accrued interest.

Accordingly, FMAT(MV) 103 of 2023 along with COT 17 of 2023 are disposed of.

Connected applications, if any, are 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.)