07.06.2023

Ct. 551
Sd./21. **FMA 1191 of 2013**

Reliance General Insurance Co. Ltd.
Vs.
Manju Shaw @ Saha @ Sau & Ors.

Mrs. Gopa Das Mukherje ..For the appellant.

Mr. Sanat Kr. Roy
Mr. Abhishek Banerjee
..For the respondent nos. 1-4

The instant appeal has been preferred against the judgment and award passed on 20.12.2012 by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Burdwan in Motor Accident Claim Case No. 43/87 of 2010.

The appellant Reliance General Insurance Co. Ltd. preferred this appeal on the ground that the award passed by the learned Tribunal is wholly arbitrary and whimsical. The learned Tribunal has miscalculated the compensation and passed an erroneous award. It is the further argument of the learned advocate for the appellant that the Insurance Company has no liability to indemnify the owner of the vehicle for the death of the driver since she did not offer or pay any premium to cover the risk of the driver who died during the course of his employment. It is the further argument of the appellant that the claim should be limited to the extent as provided for under the Employees' Compensation Act, 1923, formerly known as Workmen's Compensation Act, 1923. He further argued that the offending vehicle was not covered under the policy of the Insurance Company. Thus, the award is liable to be set aside.

Learned advocate appearing for the respondent claimant submitted before this Court that the driver of the vehicle died in a road traffic accident and the wife and children are the claimants in this case. The instant claim case was preferred under section 163A of the Motor Vehicles Act. He further argued that the learned Tribunal has considered each and every materials, and after considering the same, the award was passed which is not at al arbitrary. He further argued that the learned advocate for the Insurance Company has been misguided by the company to file the instant appeal. Actually, there is no ground to prefer the appeal. So, he prayed for dismissal of the appeal.

Heard the learned advocates. Perused the impugned order and also the record. I have also perused the LCR and paper book prepared by the Insurance Company.

Considering the materials on record, it appears that the claim application was preferred under section 163A of the Motor Vehicles Act. The determination under section 163A of the Motor

Vehicles Act is very limited. The claim under the said section is on the basis of the principle of no fault liability. In determining the said notion, the learned Tribunal has considered the pleadings of the parties and passed the impugned award. It appears that the present claimants are the wife and children of the deceased. So, they are legally entitled to get the compensation. In perusing the computation, it appears that the learned Tribunal has applied the multiplier of 16 as the victim was within the age group of 35-40 years. The documents annexed herewith, the LCR supports the judgment and adoption of multiplier in this case. The Voter I Card and Post Mortem report were considered by the learned Tribunal in considering his age. So, I find no infirmity in such conclusion. The income of the deceased was calculated as Rs. 3,000/- p.m. which is the notional income. So, I find no infirmity there also. Considering the entire circumstances, it appears to me that the award passed by the Tribunal has suffered no illegality.

Thus, I find no merit to entertain the instant appeal. Accordingly, the instant appeal is hereby dismissed.

The Insurance Company has already deposited the entire awarded amount with the learned Registrar General of this Court. Thus, the learned Registrar

General is directed to disburse the awarded amount with accrued interest to the claimants directly to their account through RTGS or through Account Payee cheques.

Accordingly, the FMA 1191 of 2013 is disposed of.

Connected applications, if any, are also disposed of.

Parties are directed to act upon the server copy of this order.

Certified copy, if applied for, be handed over on urgent basis.

(Subhendu Samanta, J.)