

26.06.2023
SL No.7
Court No. 551
Ali

**IN THE HIGH COURT AT CALUTTA
Civil Appellate Jurisdiction**

**FMA 681 of 2009
IA No:CAN/1/2009 (Old Nno:CAN/3160/2009)
CAN/2/2013 (Old Nno:CAN/2714/2016)**

**National Insurance Co. Ltd.
Vs.
Miss. Sushma Singh & Anr.**

Mr. Rajesh Singh
...for the appellant-insurance Co.

Mr. Saidur Rahman
...for the respondents-claimants.

The instant appeal is preferred by the National Insurance Company against the judgment dated 27th February, 2009 passed by Motor Accident Claims Tribunal and Additional District Judge, 12th Court, Alipore, 24-Parganas (South) in M.A.C. Case no. 140 of 2007 under Section 163A of the Motor Vehicles Act.

Mr. Singh appearing on behalf of National Insurance Company submitted before this court that the impugned judgment passed by the learned tribunal is erroneous. He again pointed out that evidence was adduced before the learned tribunal regarding the income of the injured student which assessed by the learned tribunal as Rs. 3,000/- per month. Such assessment is totally erroneous and it would be revealed from the other witnesses that the injured student used to give private tuition in a

group. He further pointed out that as the evidence of income of the injured claimant was not proved. So at this juncture, the impugned order passed by the learned tribunal is liable to be set aside.

The learned advocate appearing on behalf of claimants-respondents submitted before this court that in the accident, one claimant young lady aged about 21 years old has lost his leg and it was amputated from the Thai. The entire facts and scenario would show that the prospect of the present claimant regarding the proceeding of her future life has been suffered immensely. He further pointed out the amount which was awarded is very meager amount and the assessment of the learned tribunal regarding the monthly income of the claimant i.e Rs.3,000/- is not erroneous.

Heard the learned advocate perused the memo of appeal also perused the observation of the learned tribunal. It appears from the impugned judgment that learned tribunal after considering the evidence of P.W-2 has felt that the claimant used to earn Rs.3,000/- per month.

This is a case filed under Section 163A of the Motor Vehicles Act; in this case, the lady of 21 years has lost her leg.

Considering the entire circumstances, it appears to me that the amount of compensation awarded by the learned tribunal is not exorbitant

amount. Thus, I find no merit to entertain the instant appeal.

The award passed by the learned tribunal is appears to be justified. It appears that during passing the award the learned tribunal has ordered that the compensation shall carry interest @ 9% per annum from the date of filing of the application; it should be 6% per annum instead of 9% per annum. It further appears that the insurance company deposited the entire awarded amount with the office of the learned Registrar General, High Court, Calcutta.

Considering the same the claimant is at liberty to withdraw the amount from the learned Registrar General, High Court Calcutta alongwith accrued interest, if any. Learned Registrar General to hand over the money to the claimant within eight weeks.

After receiving the amount if it appears that some amount is till due so far as the interest concerned, learned advocate for the claimants shall inform the insurance company in respect of the rest due amount. The insurance company after receiving the intimation alongwith bank particulars of the claimant shall pay the rest amount within three weeks.

The instant FMA is disposed of.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)