

12.12. 2023
item No.20
n.b.
ct. no. 551

F.M.A. 884 of 2023

Smt. Ratna Das & Ors.

Vs.

The National Insurance Company Limited & Anr.

Mr. Amit Ranjan Roy

.....for the appellants.

Mr. M. P. Chakraborty

Ms. Ratnadipa Karmakar

Mr. Subhabrata Ghosh

.....for the respondent/Insurance Company

The instant appeal has been preferred against the judgment and award dated 14th June, 2016 passed by the learned Judge, Motor Accident Claims Tribunal in M.A.C. Case No.78 of 2014 under Section 166 of the M.V. Act.

The brief fact of the case is that the present appellants being the claimants preferred an application under Section 166 of the M.V. Act before the learned Tribunal for getting compensation on the ground that their predecessor was died in a road traffic accident due to rash and negligent driver of the offending vehicle duly insured under the policy of the insurance company.

The claim case was contested by the insurance company.

After hearing the parties and after receiving the evidences, the learned Tribunal has awarded a sum of Rs.4,26,000/- along with 7% interest per annum in favour of the claimants.

Being aggrieved by and dissatisfied with the said award the claimants preferred the instant appeal for enhancement of the award. The grounds for enhancement is basically based upon the income of the deceased.

Learned advocate for the appellants submits that the deceased was a handloom weaver. He possessed the required identity card from the Development Commissioner of Handloom under the Ministry of Textile. Learned tribunal has held that he was a skilled labour but his income was assessed to be Rs.4,000/- only. He argued that according to the minimum wages of the State of West Bengal, a skilled labour used to earn for the year 2014 is more than Rs.6,000/-. But, in this case, though the learned Tribunal has considered the deceased to be skilled labour but assessed income to be Rs.4,000/- per month. The income of the deceased must be enhanced.

Learned advocate appearing on behalf of the insurance company raised strong objection. He submits that the learned Tribunal has considered the deceased as a skilled labour and consequently, the notional income of Rs.3,000/- per month was not adopted in this case. Rs.4,000/- was adopted to be monthly income of the deceased. He submits that the observation of the learned Tribunal is justified, no new circumstances was placed before this appellate court to consider the income of the deceased in higher side. So, he prayed for disposal of the instant appeal.

Heard the learned advocates and perused the materials and exhibited documents placed before the learned Tribunal.

It is true that deceased was a handloom weaver. The hand loom weaving is a business, which requires a specific skill of weaving of handloom. The P.W. 2 and P.W.3 appear before the learned Tribunal, who was a co-weaver of the same locality. He stated that the income of the deceased Rs.10,000/- per month; apart from that nothing has been placed before the learned Tribunal to consider the income of the deceased. However, considering the fact that the deceased was a handloom weaver and also considering the fact that they had their ancestral business of such handloom weaving and carrying the family of having member more than 3, I think it appropriate to fix the income of the deceased to be Rs.6,000/- per month. It further appears that the claimant should entitle to get the benefit of the direction of the Hon'ble Supreme Court passed in **Pranay Shetty** regarding the future prospect of general damages.

Considering the same, the award passed by the learned Tribunal needs modification.

For just and proper compensation of this case, is as follows:-

1. Monthly income	: Rs. 6,000/-
2. Yearly income (6000X12)	: Rs.72,000/-
3. Deduction 1/3 rd	: Rs. <u>26,000/-</u> : Rs. 48,000/-
4. Add Future Prospect 25%	: <u>Rs.12,000/-</u> Rs.60,000/-
5. Multiplier '13' (Rs.60,000/- X 13)	: Rs.7,80,000/-
6. Add General Damages	: <u>Rs.77,000/-</u> Rs.8,57,000/-
7. Amount paid	<u>Rs.4,26,000/-</u>
Balance	Rs.4,31,000/-

The Insurance Company is directed to pay the balance awarded sum of Rs.4,31,000/-, along with 6% per annum interest from the date of filing of claim application that is from 12.12.2014 within six weeks from the date of passing of this order through the office of the learned Registrar General, High Court, Calcutta.

On such deposit, the claimants are at liberty to receive the same according to the prevalent rules in equal shares subject to ascertainment of payment of deficit court fees.

F.M.A. 884 of 2023 is disposed of.

Connected applications, if any, are consequently 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.)