15.12. 2023
item No.22
n.b.
ct. no. 551

FMA 814 of 2023

Aditya Parua
Vs.
Tata AIG General Insurance Co. Ltd. & Anr.

Mr. Pulak Ranjan Bhattacharya,
Mr. Pingal Bhattacharya,
Mr. Rajdeep Sinha,
.....for the appellant.
Mr. Rajesh Singh,
...for the respondent.

The instant appeal has been preferred against the Judgment and award dated June 6, 2021 passed by the learned Judge, Motor Accident Claims Tribunal , Tamluk, Purba Medinipur in Motor Accident Claim Case No. 85 of 2014.

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 on the ground that he sustained a severe injury on October 28, 2013 due to rash and negligent driving of the offending vehicle duly insured under the policy of the Insurance Company. By such accident, he was severely injured and permanently disabled. The Doctor of the Government Hospital has issued a disabled certificate wherefrom it would be appear that he was permanently disabled of 80%. The claim was contested by the Insurance Company and after hearing the parities, the learned Tribunal has awarded sum of Rs.8,12416/- in favour of the claimants.

Being aggrieved by and dissatisfied with the same award, the present appeal has been preferred by the claimant for enhancement of the award. The only ground for enhancement of the award has placed by the learned advocate for the appellant is the assessment of the income of the appellant.

Learned advocate for the appellant submits that the appellant was a Mansion Labour Supplier. His income was stated in the claim application to be Rs.6,000/- per month. But the learned Tribunal has assessed income of the claimant to be Rs.3,000/- notionally. The assessment of the learned Tribunal is improper. The claimant himself deposed as P.W. 1 and other witnesses proved the fact that he used to earn Rs.6,000/- per month.

Mr. Singh, learned advocate appearing on behalf of the Insurance Company raised strong objection and has argued that the tribunal has assessed the income of claimant correctly. There are no documentary evidences to prove that the appellant used to earn Rs.6,000/- per month. In absence of any convincing document, the learned Tribunal has assessed income of the deceased correctly to be Rs.3,000/- per month. So, there is no error apparent in the judgment.

Heard learned counsel and perused the materials on record, it is true the learned Tribunal has assessed the income of the appellant notionally. It appears that the appellant suffered injury on 28.10.2013. In considering the notional income before this appellate Court, the practice has been adopted by this Court that when there is not reliable documentary evidences of income, the income of the victim should be assessed when the suffered accident from the year 2011 to 2014 to be Rs.4,000/- per month. In this case, the same view can be adopted.

It appears that the learned Tribunal has already awarded Rs.1,67,296/- towards the medical expenses. The appellant is entitled to get such medical expenses. Accordingly, the award passed by the learned Tribunal is hereby modified.

1. Monthly income	: Rs.4,000/-
2. Annual income	: Rs.48,000/-
3.40% future prospect	: Rs.19,200
	Rs.67,200/-
4. 80% disability	: Rs.53,760/-
5. Multiplier "16"	: 8,60,160/-
6. Add Medical Exp.	: 1,67,298/-
	10,27,458/-
7. Less already paid	8,12,416/-
Balance	2,15,042/-

The total award comes to Rs.10,27,415/- The Insurance Company has already paid in terms of the judgment of the Tribunal Rs.8,12,416/-. The balance awarded comes to Rs.2,15,042/-

The Insurance Company is directed to pay the balance amount along with 6% interest per annum from the date of filing of the claim application i.e. from April 10, 2014 within six weeks from the date of passing of this award with the office of the learned Registrar General, High Court, Calcutta. On such deposit, the appellant is at liberty to receive the same according to the prelevant rules subject to ascertainment of payment of deposit deficit fees, if any.

Accordingly, FMA 814 of 2023 is 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.)