5.12. 2023
item No.12
n.b.
ct. no. 551

FMA 1111 of 2022

Chhitamoni Hasda @ Chhitamoni Hansda & Ors.
Vs.
The New India Assurance Co. Ltd..

Mr. Jayanta Kr. Mondal,
..... for the appellant.
Mr. Parimal Kr. Pahari,
...... the respondent No.1.

The instant appeal has been preferred against the judgment and award dated May 05, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Paschim Medinipur in M. A. C. case No. 535 of 2018.

The present appellants being the claimants referred 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 driving of the driver of the offending vehicle duly insured under the policy of the Insurance Company.

The Insurance Company contested the claim case by filing written statement. The learned Tribunal after hearing the parties and after receiving the evidences has allowed the claim case in favour of the claimants and directed the Insurance Company to pay the compensation amounting to Rs.8,26,000/- along with 4% interest per months.

Being aggrieved by and dissatisfied with the said award, the instant appeal has been preferred. Only two points are involved in this instant appeal.

Learned advocate for the appellants submits that at the time of assessing the compensation, the learned Tribunal has failed to award the future prospect by virtue of the decision of the Hon'ble Supreme Court **in Pranay Shetty.** He further argued that the interest was awarded to be 4% per annum from the date of filing of the claim application, it should be at least 6% per annum.

Learned advocate for the Insurance Company submits that the award passed by the learned Tribunal suffers no illegality. He further argued that the learned Tribunal has considered the income of the deceased to be Rs.6,000/- per month which is erroneous. The notional income in this case should be not more than Rs.5,000/- per month. He further argued that this Hon'ble Court has adopted the view on several decisions when the accident occurred later than the year 2015. The award should be calculated by fixing the notional income of the deceased, when he had no specific income, but in this case, monthly income assessed erroneously Rs.6,000/- per month.

Heard the learned advocate and perused the materials on record, it appears to me that the learned Tribunal has assessed the entire facts and circumstances of the case before him and at the time of assessing the compensation, he has followed the rule laid down by the Hon'ble Supreme Court in **Pranay Shetty** regarding giving the general damages but he failed to provide the future prospects to the claimants. So, in this case, it appears that the deceased was 44 years old and he was a self-employed person. In this case, the claimants are entitled to get 25% towards the future prospects upon the established income of the deceased. The learned Tribunal has considered the entire aspect regarding the notional income of the deceased and I find that notional income has correctly assessed in this case. This court adopted regularly same view that in all cases of compensation under Motor Vehicles Act, the interest should be at least 6% interest per annum. So, in this case, the claimants are also entitled to get the award along with 6% per annum from the date of filing of this case. On above backdrop, it is necessary to modify the award passed by the learned Tribunal.

The just and proper compensation of this case is assessed as follows:

1. Monthly income	:	Rs.6000/-
2. Yearly income (6000 X 12)	:	Rs.72,000/-
3. Add Future Prospect	:	Rs.18,000/-
		Rs.90,000/-
4. Less 1/4th for personal exp.	:	Rs.22,500/-
		Rs.67,500/-
5. Multiplier '14' (67,500 X 14)		Rs.9,45,000/-
6. Add General Damages	:	Rs.70,000/-
Total		Rs.10,01,500/-

7. Less Award paid	:	Rs.8,26,000/-
Balance	:	Rs.1,89,000/-

After calculation, the award comes to Rs.10,15,000/-. The learned Tribunal has already awarded Rs.8,26,000/-. So, the balance awarded amount comes to Rs.1,89,000/-.

The Insurance Company is directed to pay the balance awarded amount along with 6% interest per annum from the date of filing of the claim application and pay the interest of 2% upon the awarded amount of Rs.8,26,000/- from the date of filing till its actual payment

The Insurance is further directed to pay the awarded amount 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 officer of the learned Registrar General, High Court, Calcutta shall disburse the amount in favour of the claimants according to the prelevant rules subject to ascertainment of payment of deposit court fees if any.

Accordingly, FMA 1111 of 2022 is disposed of.

Connected applications, if any, are also 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.)