

08.09. 2023

item No.7

n.b.

ct. no. 551

RVW 184 of 2023

in

FMA 646 of 2009

With

IA No. CAN 2 of 2009(Old No. CAN 251 of 2009)

Tamali Dasi & Anr.

Vs.

The New India Assurance Company Ltd. & Anr.

Mr. Krishanu Banik,

Ms. Sima Ghosh,

.....for the applicant.

The instant review application has been filed on behalf of the claimants only on the ground that at the time of passing the impugned judgment of this Court dated July 12, 2023. This Court observed the finding of constitutional bench of Hon'ble Supreme Court passed in **Pranay Shetty** and awarded the future prospects @ 40% of the yearly income of the deceased. But the other aspect i.e. general damages as directed by the Hon'ble Supreme Court in **Pranay Shetty** was not awarded erroneously.

Learned advocate for petitioners submits that the error is only arithmetic error, so, that can be corrected by virtue of this application for review.

Learned advocate for the Insurance Company raised strong objection and submits that the award has already been passed by this Court on July 12, 2023 and the substantial amount as directed by this Court has already

been deposited by the Insurance Company with the office of the learned Registrar General, High Court, Calcutta. At this juncture, if the claimant has anything to receive that may be received by way of appeal before the Hon'ble Supreme Court. Any enhanced amount of compensation cannot be awarded by this Court in review application, thus, the review application is liable to be dismissed with costs.

Heard the submission of the learned advocate on behalf of the applicant; peruse the grounds of review application. The impugned order passed by this Court on July 23, 2023, wherein it is observed by this Court in page 6 that the direction for Hon'ble Supreme Court passed in **Pranay shetty** has to be followed in awarding the compensation. The future prospect was allowed by virtue of **the Pranay Shetty** but no award was given towards the general damages. It is quite justified to note that the learned Tribunal has awarded general damages of Rs.4,500/-, which was also noted in the impugned order. It appears to me that this is an inadvertent mistake and which can be cured by way of this review application.

Considering the same, it is ordered that the review application filed and claims are considered and allowed. The claimants are also entitled to get the general damages to the tune of Rs.30,000/- towards the head of loss of state and funeral expenses Rs.15,000/- each.

The Insurance Company is directed to pay the amount of Rs.30,000/- to the claimants along with 6% interest per annum from the date of filing of the claim application with the office of the Learned Registrar General, High Court, Calcutta within 8 weeks from the date of passing of this order.

The review application is, thus, 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.)