19.09. 2023
item No.2
n.b.
ct. no. 551

FMAT 1183 of 2013
with
CAN 1 of 2014(Old No. CAN 2696 of 2014)
+
CAN 2 of 2023
+
CAN 3 of 2023

Jaigun Nesa & Ors.
Vs.
The New India Assurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy,,
.....for the appellant.
Ms. Suchirita Paul,
.... for the added respondent no.1.
Mr. Sanjoy Paul,
... for the respondent no.2.

In Re. CAN 2 of 2023 & CAN 3 of 2023

CAN 2 of 2023 is filed for expunging the name of the appellant no.1, who was the wife of the deceased, on the ground that the appellant no. 1, namely, Jaigun Nesa died during the pendency of the instant appeal. Thus, her name is required to be expunged from the Memo of the Cause title of the appeal.

CAN 3 is filed for amending the name and address of appellant nos. 4 & 5 in the Cause Title as they got married during the pendency of the appeal.

Considering the submissions of the learned advocate, the CAN 2 of 2023 and CAN 3 of 2023 are disposed of.

The department is directed to correct the Cause Title of the Memo of the appeal according to the schedule amendment mentioned in the page 3 of the CAN 3 of 2023 within a fortnight.

In Re. FMAT 1183 of 2013

The instant appeal has been preferred against the judgment dated April 16, 2013 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Howrah in M.A.C Case No.84 of 2006.

The brief fact the case is that the present respondent/claimant has preferred an application under Section 166 of M.V. Act before the learned Tribunal for getting compensation on the ground that their predecessor was died in a road traffic accident due the rash and negligent driving of the driver of the offending vehicle duly insured under the policy of the New India Assurance Co. Ltd.

The owners of the offending vehicle were not contested before the learned Tribunal. Thus, the claim case was decreed ex parte against the owners. Owners are the respondent nos. 3 and 4 of this appeal. As they did not contest the matter before the learned Tribunal so, notice of appeal upon the respondent nos. 3 and 4 are dispensed with.

It appears that a very short point is involved in this appeal, so, it is not required to call for the LCR to dispose of the instant appeal.

Claim was contested by the Insurance Company before the Learned Tribunal. After hearing the parties, the learned Tribunal has awarded sum of Rs.89,500/- in favour of the claimants.

Being aggrieved by and dissatisfied with said award the present appeal has been preferred.

Heard the learned advocate at length. It appears that the learned Tribunal is considered the income of the deceased to be Rs.15,000/- per annum. Though no document regarding the income of the deceased was placed before the learned Tribunal. But considering the number of the claimants also considered the fact that the deceased was sole bread earner of the family. So, the income of the deceased cannot be considered to be Rs.15,000/- per annum. In this case the income of the deceased should be Rs.3,000/- per month.

The learned Tribunal has awarded the compensation considering the multiplier 8. According to the observation of the Hon'ble Supreme Court passed in **Pranay Shetty** followed by the **Sarala Verma** the age of the decease was 56 years;. So the applicable multiplier would be 9.

According to the direction of the Hon'ble Supreme Court passed in **Pranay Shetty** the claimants are also entitled to get he future prospect as well as the general damages. Considering the number of the claimants, the deduction towards the personal expenses would be $1/4^{th}$.

Considering the entire aspect the award passed by the learned Tribunal need be modified and hereby recusted as follows:

1. Monthly income	Rs.3,000/-
2. Add future prospect 10%	Rs.300/-
	Rs.3300/-
3. Annual Income (3,300 X 12)	Rs.39,600/-
4. Multiplier 9 (39,600 X 9)	Rs.3,56,400/-
5. Less 1/4th towards the personal expenses	Rs.89,100/-
	Rs.2,67,300/-
6. Add general damages	Rs.33,000/-
	Rs.3,00.300/-
7. Less award already received	Rs.89,500/-
Total	**Rs.2,10,500/-**

In pursuance to the above calculation the balance award comes to Rs.2,10,500/-. The respondent no.2, New India Assurance Co. Ltd. is directed to pay the compensation along with 6% interest from the date of filing of the claim application i.e. from March 9, 2006 within eight weeks from the date of passing of this order with the office of the Learned Registrar General, High Court, Calcutta.

On such deposit, the office of the Learned Registrar General, High Court, Calcutta shall disburse the amount in the name of the claimants according to the prelevant rules.

Considering the financial status of the present claimants/appellants, the office of the Learned Registrar General, High Court, Calcutta is directed to disburse the cheque in the name of the claimants after receiving the same from the Insurance Company within four weeks positively.

Accordingly, FMAT 1183 of 2013 is disposed.

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.)