04-10-2023
Sh-2
Ct. No.3

CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri

FMA 22 of 2023

Kanchanbala Roy.
-vs.-
National Insurance Co. Ltd. & Anr.

Mr. Gobinda Saha,
Mr. Tamal Kumar Sen,
... for the appellant.
Mr. Hiak Barman.
..for the Insurance Co.

The appellant challenges an award dated January 30, 2023 passed by Motor Accident Claims Tribunal, Jalpaiguri.

Learned advocate appearing for the appellant submits that the order of the Tribunal requires to be modified on the ground that the Tribunal ought to have granted future prospect at the rate of 40% since the victim was 20 years old at the time of accident.

He further submits that that Tribunal ought not to have assessed the income of the deceased as Rs.3,300/- per month. He adds that no interest has been awarded by the Tribunal on the award.

I am of the view that the Tribunal was not justified in assessing the notional income of the deceased as Rs.3300/- per month. This is now an accepted practice to assess the income of a deceased based on the income of an unskilled labourer where the income of the deceased could not be proved before the Tribunal. The circular dated June 30, 2021 issued by the Labour Commissioner of the State stipulates the monthly income of unskilled labourer in the employment of the agriculture as Rs.6978/-.

In that view of the matter, the income of the deceased, claimed to be a graduate private tutor, should have been assessed as Rs.7000/- per month.

I find justification in the submission made by the learned advocate appearing for the appellant that in view of the judgments reported at (2017) 16 SCC 680 (National Insurance Company Limited V. Pranay Sethi) and JT 2009 (6) SC 495 (Smt. Sarla Verma V. Delhi Transport Corporation), the Tribunal ought to have added future prospect at the rate of 40%.

Accordingly the order of the Tribunal is modified as follows:

Monthly income of the deceased is assessed at Rs.7000/- per month and after adding 40% on account of future prospect and deducting half on account of personal expenses the figure arrived at is Rs.58,800/-. After applying the multiplier of 18 it is the figure of Rs.10,58,400/- upon which a further sum of Rs.30,000/- is to be added as general damages.

The total compensation amount therefore, is Rs.10,88,400/-

The appellant will be entitled to the aforesaid sum together with interest at the rate of 6% per annum from the date of lodging of the case (24-05-2021) before the tribunal till the actual payment is made.

The appellant acknowledges having received the entire amount as awarded by the tribunal.

The Insurance Company will calculate the balance amount due to the appellant in terms of this order and make over such amount to the appellant. The payment should be made directly to the bank account of the appellant within 45 days from date.

The bank account details of the appellant should be forwarded by the learned advocate for the appellant to the advocate for the Insurance Company within a fortnight from date.

FMA 22 of 2023 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously subject to compliance of all requisite formalities.

(Kausik Chanda, J.)