05-10-2023
Sh-3
Ct. No.3

CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri

FMA 25 of 2023

Sumitra Sarkar & Ors.
-vs.-
United India Insurance Co. Ltd. & Anr..

Mr. Gobinda Saha,
Mr. Tamal Kumar Sen,
Ms. Priyanka Dey,
Mr. Milan Chandra Laskar,
Mr. Sanghai Chowdhury
… for the appellants.
Mr. Bipul Ranjan Bhattacharjee
..for the Insurance Co.

Though in this matter an order was dictated in the Court on 26-09-2023 disposing the appeal, before signing the order, it appeared that certain clarifications were needed from the learned advocates for the parties. Accordingly, this matter has been fixed today under the heading “To Be Mentioned”.

After hearing the parties I am of the view that the impugned award dated April 26, 2023 passed by the Motor Accident Claims Tribunal, Jalpaiguri in MAC Case No.271 of 2021 requires to be modified.

It appears that the son of the deceased (PW-1) deposed before the tribunal that the deceased was a farmer. The tribunal however, assessed monthly income of the deceased to be Rs.3300/- per month. It is now a well accepted practice to assess the monthly income of the victim, in the absence of any proof, based on the monthly income of an un-skilled labourer. A notification dated June 30, 2021 issued by the Office of the Labour Commissioner, State of West Bengal stipulates the minimum wages of an unskilled labourer in the employment in agriculture as Rs.6978/- per month.

The accident took place on May 6, 2021. Therefore, in my view, the tribunal should have assessed the monthly income of the deceased as Rs.7000/ per month.

It further appears that the appellants are entitled to future prospect at the rate of 10% since the age of the deceased was 56 years at the time of accident.

Accordingly, the award of the learned tribunal is modified as below.

Monthly income of the deceased is assessed at Rs.7000/- per month. Therefore, the annualized income of the deceased would be Rs.84,000/-. After adding 10% on account of future prospect and deducting 1/4th on account of personal expenses, the figure arrived at is Rs.69,300/- upon which the multiplier of 9 is to be applied. After adding Rs.70,000/- for general damages, the total compensation amount, therefore, becomes Rs.6,93,700/-

The appellants would be entitled to the aforesaid amount together with the interest at the rate of 6% per annum from the date of lodging of the claim application before the tribunal (01-06-2021) till the actual payment is made .

The appellants acknowledge having received the entire amount awarded by the tribunal.

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

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

FMA 25 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.)