11.1. 2024
item No.18
n.b.
ct. no. 551

FMAT(MV) 8 2024

Smt. Tirthabala Ghosh & Ors.
Vs.
The Oriental Insurance Co. Ltd. & Anr.

Mr. Jayanta Benerjee,
Mr. Sandip Bandyopadhyay,
Mr. Arghya Bhatttacharya,
.....for the appellant.
Mr. Sanjoy Paul,
.... For the respondent.

The instant appeal has been preferred against the Judgment and award dated September 26, 2023 passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Krishnagar, Nadia, in Motor Accident Claim Case No. 454 of 2009.

The report of the stamp reporter suggests that the instant appeal has preferred in time. Accordingly, the instant appeal is formally admitted.

The Insurance Company i.e respondent no.1 is represented by Mr. Paul, learned advocate.

A very short point is involved in this appeal. The appeal is taken up for hearing.

Learned advocate for the appellant submits that the learned Tribunal has awarded the compensation together with interest @ 7.5 % since the date of award. The dictum of the statute is that the interest has to be given from the date of filing of the application. The learned Tribunal has committed error for not obeying direction of the statute. So he prayed for necessary direction for granting interest from the date of filing of the claim application.

Learned advocate appearing on behalf of the Insurance Company submits that pursuant to the award itself revealed that the award not in conformity with the provision of law. The entire claim case was preferred under Section 163(A) of the M.V. Act. In awarding the compensation Section 163(A) of the M. V. Act, the schedule of the Section 163 of the MV. Act has to be followed. Inner page 9 of the award has mentioned the calculation part, which would appear that from the said page of the award that leaned Tribunal has awarded future prospect as well as the loss of funeral expenses and loss of consortium by virtue of decision of Hon'ble Supreme Court in **Pranay Shetty**. The observation of the Hon'ble Supreme Court in **Pranay Shetty** is only available in a proceeding under Section 166 of M.V. Act. Thus, the award passed by the learned Tribunal is itself erroneous and liable to be set aside.

Heard the learned advocates and perused the inner page 9 of the award wherein the compensation was calculated by the learned Tribunal. It appears that the learned Tribunal has added future prospect i.e. 10 % of established income of the deceased as well as the general damages of Rs.70,000/-. In proceeding under Section 163A of the M. V. Act, the future prospect is not available.

The schedule under Section 163A of the M.V. Act suggests the general damages highest to be Rs.9,500/-. In that score, the observation of the learned Tribunal appears to be erroneous. However, the Insurance Company has already satisfied the award by issuing cheques in the name of the claimant. The claimant has already received the cheque.

However, it appears that the learned Tribunal has committed error by not allowing compensation together with interest from the date of filing of the application. So, in this case, the compensation amounting to Rs.3,96,700/- shall carry interest @6% per annum from the date of filing of the claim application till date of the deposit of awarded amount.

The Insurance Company is directed to issue fresh cheque in respect of interest part through the office of the learned Tribunal within eight weeks from the date of application.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)