27.2. 2024
Item Nos.205 & 206
n.b.
Ct. no. 551

FMA 925 of 2022

with

IA CAN 1 of 2017(Old No. CAN 950 of 2017)

+

CAN 2 of 2017(Old No. CAN 954 of 2017)

National Insurance Co. Ltd.
Vs.
Sri Sudip Roy & Anr.

With

COT 29 of 2019

With

CAN 1 of 2019(Old No. CAN 6711 of 2019)

Mr. Rajesh Singh,
.....for the appellant.
Mr. Soujanya Bandopadhyay,
.... For the respondents.

The name of the respondent appearing in the Memo of the Appeal erroneously as “Sudipta Roy”, it would be read as “Sudip Roy”.

The appellant/Insurance Company is granted leave to correct the same within fortnight.

The instant appeal has been preferred against the judgment and award dated September 22, 2016 passed by the learned Judge, City Civil Court, in M.A.C. Case No. 601 of 2009. The Insurance Company has preferred the instant appeal against the award.

The claimant also preferred one cross appeal being, COT No.29 of 2019 against the said award. Both the appeal and the cross appeal are taken up for hearing.

The brief fact of the case is that the present respondent/cross objector have preferred an application under Section 166 of the M.V. Act before the learned Tribunal for getting compensation. The claim case was contested by the Insurance Company.

After hearing the parties, learned Tribunal has awarded the sum of Rs.7,54,363/- together with 8% interest per annum from the date of filing of the claim application till the satisfactory realization of the compensation, in default, compound interest @ 10% per annum was awarded. The Insurance Company is further directed to comply the order by paying account pay cheque in the name of the appellant within one month from the date of this award.

Being aggrieved by and dissatisfied with the said award, the Insurance Company has preferred the instant appeal on the ground that the interest portion awarded on and above the compensation is erroneous. It is the case of the Insurance Company that the learned Tribunal has awarded the interest of 8% per annum along with compounding interest @ 10% till satisfactory realization. He further argued that the award on the point of interest is required to be set aside.

Learned advocate appearing on behalf of the claimants submits that the claimants have preferred the instant cross appeal only on the ground that the learned Tribunal has failed to assess the future prospect in this case. He submits that the injured was within the age of 30 to 35 years at the time of accident so, in that score, the claimant is entitled to get the future prospect to the tune of Rs.40% to the established income according to the observation of the Hon'ble Supreme Court passed in ***National Insurance Co. Ltd. vs. Pranay shetti***.

Heard the learned advocates for both the parties, perused the observation of the learned Tribunal and also perused the award. In considering the facts and circumstances of the case and also considering the relevant provisions under Section 171 of the M. V. Act, it is true that every award shall carry simple interest but the learned Tribunal has awarded compound interest @ 10% on the default clause. The said clause of compound interest is required to be se aside. It is ordered that the award shall carry 6% interest per annum from the date of filing of the claim application. In considering the future prospect of this case, it appears that the learned Tribunal has not awarded the future prospect in favour of the claimant. In this case, the claimant was at the age of 33 years, when he suffered the accident. So, he is entitled to get the 40% of his established income towards the future prospect, accordingly to the ratio of the Hon'ble Supreme Court passed in **Pranay Shetti (*supra*).** On the above observation, the award passed by the learned Tribunal is required to be modified.

1. Monthly Income : Rs.4000/-

2. Annual income :Rs.48,000/-
3. Add 40 % Future prospect : Rs.19,200
: Rs. 67,200/-
4. Disability 85% : Rs.57,120/-

5. Multiplier 17 (Rs.57,120/-x 17) Rs.9,71,040/-
6. Add Medical Expenses : Rs.55,763/-
:Rs.10,26,803/-
7. Add Non-pecuniary loss : Rs.2,500

Total :Rs. 10,29,303/-

After calculation the just and proper compensation of this case comes to Rs.10,29,303/-. The award shall carry 6% interest per annum from the date of filing of the claim application i.e 4.9.2009.

It appears that the Insurance Company has deposited Rs.25,000/- as statutory deposit vide OD Challan No.2998 dated 3.2.2017 and thereafter deposited a sum of Rs.11,02,773/- vide OD challan No.475 dated 9.6.2017. The amount totaling to Rs.11,27,773/-. The same amount must have carried some interest.

The office of the learned Registrar General, High Court, Calcutta is directed to disburse the amount along with accrued interest to the claimants within four weeks from the date of passing of this order. After receiving such amount, the claimants shall intimate the Insurance Company regarding the amount they have received from the office of the learned Registrar General, High Court, Calcutta. After receiving such information from the claimant, the Insurance Company shall disburse the rest amount along with interest within four weeks from the date of communication directly to the bank account of the claimants duly furnished by the claimants to the Insurance Company along with the intimation.

Accordingly, FMA 925 of 2022 along with COT 29 of 2019 are disposed of.

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.)