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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 142 of 2021

Subhajit Dey

-Vs-

National Insurance Co. Ltd. & Anr.

For the Appellant/claimants : Mr. Ashique Mondal

For the respondent/Insurance co. : Ms. Sucharita Paul

Heard on : 06.08.2024

Judgment on : 06.08.2024

Ananya Bandyopadhyay, J. :-

1. The learned advocate for the appellant/claimant submitted that the instant appeal has been filed against the impugned judgment and award dated 14.06.2018 passed by the learned MACC Tribunal cum Additional District Judge, 13th Court, Alipore, South 24 Parganas in M.A.C. Case No. 145 of 2013 under Section 166 of the Motor Vehicles At, 1988.
2. The appellant/claimant has filed the aforesaid Motor Vehicles Case claiming the compensation for the death of his father who met with an accident on 15.01.2013 at about 10.00 a.m. at B.T. Road in front of Regent parking. The offending vehicle being truck bearing registration No. WB-41B/7643 approached the victim from behind and hit the victim in rash and negligent

manner whereby he sustained serious bleeding injuries and was transmitted to Balaram Seva Mandir Hospital at Kamarhati by the local people along with police personnel. Thereafter, he was shifted to R.G. Kar Medical College and Hospital where eventually in the night he succumbed to his injuries. The occurrence of the incident was not disputed. However, the driving licence was observed to be invalid and ineffective to have been possessed by the driver of the offending vehicle and the learned tribunal on that accord justifiably granted the insurance company right to pay and recover of the compensation amount from the owner of the offending vehicle.

3. Heard the rival contentions of the learned advocates for the appellant/claimant as well as the respondent/insurance company. It appears that the learned tribunal erroneously considered the multiplier to be 15 instead of 14 with regard to the age of the victim of 41 years at the time of accident as per the observation of *Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr¹*. It was claimed that the deceased victim was an electrician at a particular store earning a sum of Rs.4,500/- per month. However, the same was not proved through proper evidence.
4. Considering the date of the accident to be on 15th January, 2013 and the assessment of income can be Rs. 4,000/- considering the fiscal index at the relevant time. The learned tribunal erred in not granting the future prospect in view of the decision of the

Hon'ble Supreme Court in the case of *National insurance company Ltd. Vs. Pranay Shetty & Anr*².

5. In view of the decision of the Hon'ble Supreme Court in *Pranay Shetty & Anr(supra)* non pecuniary damages should be Rs. 33,000/- and not Rs. 4,450/-. The other conditions stipulated in the impugned judgment and award with regard to the pay and recovery clause is unaltered.
6. The Learned Advocate for the respondent No.1/insurance company did not object to the other components involved in calculating the award amount. The impugned award of Rs. 1,69,000/- is modified as follows:-

Monthly Income	Rs. 4,000/-
Annual Income "12"	X 12

	Rs. 48,000/-
Additional Future Prospects (25%)	+ 12000

	Rs. 60,000/-
Less Personal expenses (1/3 rd)	- 20,000/-

	40,000/-
Multiplier by "14"	X 14

	Rs. 5,60,000/-
Less amount received	- 3,64,500/-

	Rs.1,95,500/-

	1,95,500/-

¹ (2009) 6 SCC 121

1 2017(4)TAC 673(S.C)

Non Pecuniary damages	+ 33,000/-
Entitlement	----- Rs. 2,28,500/-

7. It was further submitted by both the Learned Advocates as aforesaid that the appellant/claimant had already received a sum of Rs.3,64,500/-. The appellant/claimant is entitled to receive the balance amount of Rs.2,28,500/- at the rate of 6% per annum from the date of filing of the claim application till the date of actual realization.
8. The respondent No.1/Insurance Company is directed to deposit the aforesaid amount i.e. Rs.2,28,500/- along with interest at the rate of 6% per cent per annum from the date of filing of the claim application till the date of its actual realization before the Office of the Learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order.
9. The Learned Registrar General is requested to disburse the aforesaid amount i.e. 2,28,500/- along with interest to the appellant/claimant i.e. Subhajit Dey as mentioned in the impugned judgment dated 14.06.2024 passed by the MAC Tribunal –cum- Additional District Judge, 13th Court, Alipore, South 24-Parganas on proof of proper identification of the appellant/claimant.
10. With the above observation, the instant appeal is disposed of.
11. The interim order if any stand vacated.

12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)