

IN THE HIGH COURT AT CALCUTTA**Civil Appellate Jurisdiction****Present: - Hon'ble Mr. Justice Subhendu Samanta.****F.M.A.T No. – 6 of 2015****In the Matter of****Sri Naren Dev Bagh @ Naren Bagh****Vs.****National Insurance Co. Ltd. & Anr.****For the appellant : Mr. Krishanu Banik Adv.,
Mr. Tathagata Banik Adv.,****For the Respondent no.1
Ins. Co.****: Mr. Rajesh Singh Adv.****Heard on : 27.09.2023****Judgment on : 12.02.2024****Subhendu Samanta, J.**

1. The instant appeal has been preferred against the Judgment and Award dated 30st of May, of 2014 passed by the Learned Judge, Motor Accident Claims Tribunal 12th Court Alipur , South 24 Parganas in MAC Case No. 109 of 2010.

2. The brief fact of the case is that the present appellants being the claimants have preferred an application u/s- 163A of MV Act before the Learned Tribunal for getting compensation on the ground that he sustained severe bodily injury in a Motor Vehicle accident due to rash and negligent driving of the driver of the offending vehicle.

3. The Insurance Company contested the matter by filing written statement. After hearing the parties and after receiving the evidence the Learned Tribunal has awarded a sum of Rs. 65,000/- in favour of the claimant and directed the Insurance Company to pay the compensation.

4. Being heard and dissatisfied with the said award the present appeal has been preferred by the claimant. It is the case of the appellant that the Learned Tribunal has not considered the entire claim case and came to an erroneous finding.

5. It has been further argued that the Learned Tribunal has not adopted the structure formula in assessing the compensation. It is the case of the appellant that the Learned Tribunal must have considered the injury of the claimants to assess just and proper compensation. So, he prayed for enhancement of the ward.

6. Learned Advocate appearing on behalf of the Insurance Company Mr. Rajesh Singh submits that the Learned Tribunal has committed no error the Learned Tribunal has correctly observed that no medical bills were not produced, income of the claimant has not been established and there also no material to show that due to injury caused by the accident in question. The claimant has suffered loss of income.

7. Learned Tribunal has correctly viewed that absence of loss of income and in absence of scheduled injury the benefit of multiplier system cannot be applicable. The Learned Tribunal has assessed the compensation on two grounds one is

the pecuniary damages and another is the non-pecuniary damages. There is no illegality in the finding; so the appeal has got no material at all.

8. Heard the Learned Advocates.

9. Perused the paper book and the materials on record it appears that the application u/s 163A of MV Act has been filed before the Learned Tribunal, the Learned Tribunal has assessed the compensation only on the grounds of pecuniary and non-pecuniary.

10. The statutory direction u/s 163A of MV Act laid down the principal that any application u/s 163 of the MV Act the structure formula has depicted in the schedule of the said Act has to be followed.

11. In my view in this case the claimant though have not filed the sufficient document of his loss of income but it has been proved that he sustained injury in a road traffic accident due to the involvement of the vehicle in question ensure under the policy of the Insurance Company.

12. In my view the structure formula has to be adopted to assess the compensation in this case.

13. There is nothing in the record regarding income of the claimant thus in this case the notional income is adopted to be Rs. 3,000/- per month. The just and proper compensation of this case is assessed as follows ____

Assessment of Compensation

1. Monthly Income Rs ---- 3,000/-
2. Annual Income Rs ---- 36,000/-
3. 25% loss of income Rs.---- 9,000/-

4. Use of multiplier Rs.-----	9,000/- X 16
	1,44,000/-
5. Non Pecuniary Damages Rs.-----	15,000

Total-	Rs.-1,59,000/-

14. According to the above calculation the award comes to Rs. 1,59,000/- the Learned Tribunal has already awarded a sum of Rs. 65,000/- balance of award comes to Rs. 94,000/-. The Insurance Company is directed to pay the balance award along with 06% interest per annum from the date of filing of the claim application till the payment within 06 weeks from this date through the office of the Learned Registrar General High Court, Calcutta.

15. On such deposit the claimant is at liberty to receive the award according to the prevalent rules.

16. The payment of compensation subject to the ascertainment of payment of deficit court fees, if any.

17. The Learned Tribunal shall act upon the certified copy of this order to receive the deficit court fees, if any.

18. The FMAT 6 of 2015 along with connected CAN application if any, are also disposed of.

19. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)