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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 628 of 2024

Kalpana Biswas & Ors.

-Vs-

Shriram General Insurance Co. Ltd. & Anr.

For the Appellant/claimants : Mr. Muktakesh Das
Ms. Sonali Bag

For the respondent/Insurance co. : Mr. Rajesh Singh
Ms. Sucharita Paul
Mr. Shibasish Nandy

Heard on : 29.07.2024

Judgment on : 29.07.2024

Ananya Bandyopadhyay, J. :-

1. Both the learned advocates representing the appellants/claimants as well as respondents/insurance company conceded to the occurrence of the accident was not disputed. The learned advocate for the appellants/claimants submitted the amount of income assessed by the learned tribunal to be Rs. 3000/- per month was erroneous which otherwise should have been Rs. 5000/- per month.
2. The appellants/claimants had filed a claim application in the MAC Tribunal-Cum-Additional District Judge, 5th Court, Krishnagar, Nadia under Section 166 of the Motor Vehicles Act.

The appellant/wife and three children of the deceased victim claimed a compensation of Rs. 7,42,500/- owing to the accident occurring on 07.06.2016 at about 5. 30 a.m. at Neulia Bazar. The offending lorry bearing registration No. WB-57A/6091 collided with Rickshaw van plying through Bishnupur-Chuadanga Road whereby the victim sustained serious injuries and the rickshaw was damaged. The victim consequently expired on his way to J.N.M. Hospital, Kalyani. Incidentally the victim earned a sum of Rs. 7,500/- per month by virtue of being a rickshaw van puller aged 52 years.

3. The learned tribunal as aforesaid disposed of the issues framed and on consideration of the documentary as well as oral evidence computed the compensation amount to be 3,67,000/- accounting the monthly income of the deceased to be Rs. 3000/- along with interest of 6% per annum. The occurrence of the accident, the driving license and other ancillary issues have not been controverted by the respondent/insurance company. The claim of the appellants/claimants with regard to the monthly income of the deceased victim to have been Rs. 5000/- per month can be sustainable. A rickshaw van puller can earn a sum of Rs. 5000/- per month, considering the fiscal component prevalent at the time of the accident.
4. The compensation granted by the learned tribunal is modified to the following extent, in view of the observations of the Hon'ble Supreme Court reported in National insurance company

Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs.

Delhi Transport Corporation & Anr.²

5. The learned advocate for the respondent/insurance company did not object to the other components involved in calculating the computation. The impugned award of Rs. 3,67,000/- is modified as follows:-

6.

Monthly Income	Rs. 5,000/-
Add: Future prospect (10%)	Rs. 500/-

Less: ¼ for Personal Expenses	Rs. 5,500/-
	Rs. 1,375/-

	Rs. 4,125/-
Annual Income	X 12

Multiplier by “11”	Rs. 49,500/-
	X 11

Add: General Damages to be added (Rs.70,000 + 20% Escalation)	Rs. 5,44,500/-
	Rs. 84,000/-

	Rs.6,28,500/-
Less: Principal Award Received	Rs.3,67,000/-

Entitlement	Rs.2,61,500/-

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

² (2009) 6 SC 121

7. It was further submitted by both the learned advocates as aforesaid that the appellants/claimants have already received a sum of Rs. 3,37,000/-. The appellants/claimants are entitled to receive the balance amount of Rs. 2,61,500/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
8. The respondent/insurance Company is to deposit the balance amount of Rs. 2,61,500/- along with interest at the rate of 6 % per cent per annum at the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order.
9. On receipt of the said amount, the Registrar General, High Court, Calcutta shall encash the cheque stipulating the entire calculated amount as aforesaid and thereafter disburse the same to the present appellants/claimants in the proportion as mentioned in the impugned judgment dated 28.11.2023 passed by the MAC Tribunal-Cum-Additional District Judge, 5th Court, Krishnagar, Nadia on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court fees.
10. The interest accrued on the deposited sum of compensation by the respondent/insurance company shall

be disbursed to the appellants/claimants in the proportion already determined by the learned Tribunal.

11. The instant appeal is disposed of accordingly.
12. The interim order if any stand vacated.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)