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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 672 of 2024
Anjana Singha & Anr.

-Vs-

The Oriental Insurance Co. Ltd. & Anr.

For the Appellants/claimants : Mr. Amit Ranjan Roy

For the respondent No.1/insurance co. : Ms. Sucharita Paul

Heard on : 07.08.2024

Judgment on : 07.08.2024

Ananya Bandyopadhyay, J. :-

1. The instant appeal has been filed against the judgment and order dated 21st February, 2024 passed by the learned Judge, Motor Accident Claims Tribunal cum Bench No. XIII, City Civil Court, Calcutta in M.A.C. Case No. 642 of 2017.
2. The appellants/claimants had filed an application under Section 166 of the Motor Vehicles Act, 1988 before the learned tribunal claiming compensation for death of the victim who died in an accident on 11.09.2017 at about 11.30 a.m being hit by a bus bearing registration No. WB-25 B/2396 at Howah-Shyampur road near Parijat Subhadaya Club. The victim was subsequently shifted to Uluberia S.D. Hospital where he succumbed to his injuries.

3. The learned advocates for the appellants/claimants as well as the respondent No.1/insurance company are present before the Court. Both the learned advocates conjointly submitted that the occurrence of the accident involved the offending vehicle, the driving license, insurance policy, permit etc. and other ancillary issues are not disputed.
4. The learned advocate for the appellants/claimants controverted the impugned judgment on the ground of denial of future prospects. The learned advocate for the respondent No.1/insurance company refuted the same.
5. Since, the occurrence of the accident involved with the offending vehicle are not disputed, this Court limits its consideration only to the extent agitated by the learned advocate for the appellants/claimants. The evidence of P.W. 3 deposed the victim used to work as Embroidery Computer Operator at the rate of Rs. 580 to be paid per day on “no work no pay” basis and he generally earned an approximate amount of Rs. 15,000/- per month on the basis of number of his working days. The learned tribunal marked the certificate issued by P.W.3 in respect of the salary of the victim as well as the salary register of his firm signed by the victim on the vouchers marked as Ext. 11 and Ext.12 respectively. The P.W.3 further produced certain documents with regard to the validity of his enlistment as the Raj Enterprise through various documents of GST registration certificate, trade licence etc. which were marked Ext. 13 collectively. The contention of P.W.3 could not be

controverted in his cross examination by the respondent No.1/insurance company. The P.W. 3 in his cross-examination deposed the books of accounts in his firm were maintained though he was not presently equipped with the same. The documents comprising a part as Marked Ext. 13 collectively mentioned the trade licence, as well as GST Registration for the year 2017-18. The opinion of the Learned Tribunal in view of the aforesaid documents could not be considered. The salary receipt and the salary registration Marked as Ext. 11 and 12 were not contradicted in cross-examination and should not be discarded for computing the income of the deceased.

6. In view of the above discussion and considering the oral and documentary evidence of P.W.3 the monthly income of the deceased victim is considered to be Rs. 15,000/ per month.
7. Considering the observation of the Hon'ble Supreme Court reported in *National insurance company Ltd. Vs. Pranay Shetty & Anr.*¹The impugned award of Rs. 12,72,000/- is modified as follows:-

Monthly Income	Rs. 15,000/-
	X 12
Annual Income	----- Rs. 180,000/-
	- 72,000/-
Add: Future prospect (40%)	- ----- 2,52,000/-
	Rs. 2,52,000/-
Less: ½ for Personal Expenses	Rs. 126,000/-
	----- Rs.126,000/-

Multiplier to be “18”	X 18 ----- Rs. 22,68,000/-
Add: General Damages (15,000+15,000 + 20%)	Rs. 36,000/- ----- Rs.23,04,000/-
Less: Principal Award Received	Rs. 12,72,000/- -----
Entitlement	Rs.10,32,000/-

8. The learned advocate for the appellants/claimants submits to have received the entire compensation amount on 18th March, 2024.
9. The appellants/claimants are entitled to receive the balance amount of Rs. 10,32,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
10. The respondent No.1/Insurance Company is to deposit the balance amount i.e. 10,32,000/- along with interest at the rate of 6 % per cent per annum before the office of the learned Registrar General, High Court Calcutta within eight weeks from the date of passing of this order.
11. The office of 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 equal proportion as mentioned in the impugned judgment dated 21.02.2024 passed by the learned Motor Accident Claims Tribunal cum Bench- XIII, City Civil Court,

Calcutta on proper identification on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court fees.

12. The instant appeal is disposed of accordingly.

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

(Ananya Bandyopadhyay, J.)