In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 912 of 2023
United India Insurance Co. Ltd.
Versus
Ramesh Kadma & Anr.

With

F.M.A. 919 of 2023

Ramesh Kadma

Vs.

United India Insurance Co. Ltd. & Anr.

Ms. Sucharita Paul
…for the Appellant/Insurance Company.

Mr. Krishanu Banik
Mr. Tathagata Banik
…for the Respondent/Claimant.

Heard on: October 1, 2024.

Judgment on: October 1, 2024.

Ananya Bandyopadhyay, J:- Both the learned Advocates for the appellant/insurance company and the respondent/claimant are present.

The instant appeal has been filed against the judgment and award dated 8th June, 2023 passed by the learned Motor Accident Claims Tribunals cum Additional District Judge, 7th Court, Paschim Medinipur in M.A.C. Case No. 364 of 2015.

The learned advocate for the appellant/insurance company disputed the monthly income of the victim to be Rs.8,500/- as considered by the learned tribunal in computing the amount of compensation. It was further stressed that the fact that the monthly income to such an extent was not proved accurately subject to certain anomalies. Moreover, sum of Rs.5,00,000/- granted towards pain and suffering, loss of amenities, future treatment and transportation expenses had been exorbitant. The learned tribunal granting penal interest 9% to be paid on the ground of default was arbitrary.

The learned advocate for the respondent/claimant submitted that the victim suffered permanent disablement to the extent of 65% to his detriment which incapacitated him to pursue with any kind of avocation for his survival which should have been considered to 100% functional and permanent disablement. It was further submitted that the interest granted by the tribunal should be modified to the extent of 75% per annum and the monthly income of the victim to be Rs.8,500/- hae been correctly assessed by the learned tribunal.

The learned advocate for the respondent/claimant further submitted that the sum of Rs.5,00,000/- granted as comprehensive non-pecuniary damages had been adequate.

An application under Section 166 M.V. Act was filed by the injured victim who incurred an accident on 15th May, 2015 at about 1.30 hours who had been a helper engaged in the offending vehicle being a truck bearing registration no.WB-33C/1331 which was driven in a rash and negligent manner consequently collided with another vehicle resulting in the occurrence of the accident whereby the victim was injured and suffered permanent disablement to the extent of 65% as denoted by the medical board vide document marked as Exhibit 16.

The income of the victim had not been sacrosanctly proved. However, the sum of Rs.6,500/- to be earned by the victim in a month cannot be improbable. The amputation of the right leg of the victim below knee resulted in 100% physically permanent and functional disability of the victim rendering him precariously incapacitated to pursue with his livelihood all by himself independently. Therefore, the disability to the extent of 100% is justified in the opinion of this Court. Owing to such unfortunate accident, the learned tribunal has granted a sum of Rs.5,00,000/- as non-pecuniary damages which according to this Court is justified and is not to be interfered with.

Considering the observations of the Hon'ble Apex Court Pranay in *National insurance company Ltd. Vs. Pranay Shetty & Anr*[1] *and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.*[2],the impugned award of Rs. 17,01,250/- is modified as follows:

Monthly Income Annual Income	Rs. 6500/- X 12
	Rs. 78,000/-
Less Future Prospect to be added(25%)	Rs. 19,000/-
Multiplier to be "14"	Rs. 97,500/- X 14
	Rs. 13,65,000/-
Medical Expenses	Rs. 3,00,000/-
Pain & Suffering	Rs. 1,00,000/-
Loss of amenities	Rs. 75,000/
Future treatment	Rs. 25,000/-
Transportation Expenses	
	Rs. 19,06,000/-

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

2 (2009) 6 SC 121

It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company has deposited the entire awarded amount with interest of 6 % per annum from the date of filing of the claim application i.e. 25,17,460/- as per the challan filed by the learned advocate for the Appellant/Insurance company. The respondent/claimant is entitled to receive the balance amount of Rs. 19,06,000/- at the rate of 6% per cent per annum from the date of filing of the claim application (22.07.2015) till the date of actual realization.

The office of the Registrar General, High Court at Calcutta is to deduct the entire amount inclusive of the awarded amount as aforesaid along with an interest of 6 % per annum on the same from the date of filing of the claim application till the date of realization, from the deposited amount in this Court and refund the balance amount through a cheque to the learned advocate for the insurance company for the accounts of the insurance company. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which was further deposited in the nationalized bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the respondent/claimant and the balance sum of interest to be refunded to the insurance company through distinct account payee cheques.

The instant appeals are disposed of accordingly.

The interim order if any stand vacated.

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

(Ananya Bandyopadhyay, J.)