In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 632 of 2023

Debi Hansda & Ors.
v.
The National Insurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy
Mr. Pradyut Kumar Roy
… for the appellants/claimants.

Mr. M.P. Chakraborty … for the respondent no.1/insurance company.

Heard on: September 17, 2024.

Judgment on: September 18, 2024.

Ananya Bandyopadhyay, J:- The learned advocates for the appellants/claimants and the respondent No.1/insurance company are present.

The instant appeal has been filed by the appellants/claimants challenging the impugned award dated 18th May, 2022 passed by the learned Judge, Motor Accident Claim Tribunal, Fast Track, 1st Court, Tamluk, Purba Medinipur in disposing of the MACC Case No.161 of 2018.

The learned advocate for the appellants/claimants challenged the impugned judgment and award on the ground of the notional income considered to be Rs. 5000/- per month by the learned tribunal. It was further stressed that the learned tribunal failed to consider that the victim used to earn a sum of Rs. 9000/- per month being a 'carpenter'.

The occurrence of the accident, the driving licence, the involvement of the offending vehicle, route permit and other ancillary issues have not been disputed by the learned advocate for the respondent Nos. 1/insurance company. This Court limits itself only to the point of monthly income of the victim for computation of the compensation award. In the year 2018 when the victim died out of an accident it could not have been improbalized for the victim to earn a sum of Rs. 9000/- per month. More-over, the victim to have been involved in a work of a 'carpenter' earning such a modicum amount could not have produced any documentary evidence, this Court therefore, finds its just to consider the monthly income of the deceased to be Rs. 7,000/- per month.

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. 12,04,000/- is modified as follows:

Monthly Income	Rs. 7000/-
	X 12
Annual Income	Rs. 84,000/-
Less: Personal expenses 1/4th	- 21,000/-
	Rs. 63,000/-
Future Prospect to be added(40%)	25,200/-
Multiplier to be "18"	Rs. 88,200/-
	X 18
	Rs. 15,87,600/-
General Damages 20%	Rs. 15,87,600/-
(70,000+14,000)	Rs. 84000/-
Less awarded amount	Rs. 16,71,600/-
	Rs. 12,04,000
	Rs. 4,67,600/-

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

2 (2009) 6 SC 121

It was further submitted by both the learned advocates as aforesaid that the appellants/claimants have already received a sum of Rs. 12,04,000/. The appellants/claimants are entitled to receive the balance amount of Rs. 4,67,000/- at the rate of 6% per cent per annum from the date of filing of the claim application (19.04.2018) till the date of actual realization.

The respondent Nos. 1/insurance Company is to deposit the balance amount of Rs. 4,67,600/- along with interest at the rate of 6 % per cent per annum as aforesaid before the office of the learned Registrar General, High Court Calcutta within eight weeks from the date of passing of this order.

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 as mentioned in the impugned award dated 18th May, 2022 passed by the learned Judge, Motor Accident Claim Tribunal, Fast Track, 1st Court, Tamluk, Purba Medinipur in MACC Case No.161 of 2018 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court fees.

The instant appeal is disposed of accordingly.

The lower court records be sent down to the concerned tribunal forthwith.

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

c.m. ***(Ananya Bandyopadhyay, J.)***