29.1. 2024
item No.10
n.b.
ct. no. 551

FMAT(MV) 594 of 2023

with
CAN 1 of 2023
+
CAN 2 of 2023
+
CAN 3 of 2023

The Oriental Insurance Co. Ltd.
Vs.
Parbati Mandi(Saren) & Ors.

Mr. Rajesh Singh,
.....for the appellant.
Mr. Amit Ranjan Roy,
.... For the respondents.

Affidavit of service filed on behalf of the appellant in taken on record.

In Re. CAN 1 of 2023

The contestant respondent has made their appearance. Accordingly the delay in preferring the instant matter is hereby condoned. Accordingly, CAN 1 of 2023 is disposed of.

In Re. CAN 2 of 2023

In furtherance of this Court the Insurance Company has already deposited the entire sum. Accordingly, CAN 2 of 2023 is also disposed of.

In Re. FMAT(MV) 594 of 2023

The instant appeal has been preferred against the judgment and award dated July 26, 2019 passed by the learned Tribunal, 4th Court, Paschim Medinipur, in M.A.C. case No.420 of 2016.

The brief fact of the case is that the present respondent being the claimant preferred an application before the learned Tribunal under Section 166 of the Motor Vehicles Act for getting compensation from the Insurance Company on the ground that their predecessor died in a road traffic accident due to rash and negligent driving of the driver of the offending vehicle duly insured under the policy of the insurance company. The claim was contested by the Insurance Company by filing written statement.

After hearing the parties, the learned Tribunal has awarded a sum of Rs.69,75,677.44/- in favour of the claimants.

Being aggrieved by and dissatisfied with the impugned award, Insurance Company has preferred the instant appeal.

Mr. Singh, learned advocate appearing on behalf of the Insurance Company submits that the instant appeal has already been preferred against the quantum of compensation. He argued that the learned Tribunal has erroneously awarded the compensation by fixing the monthly income of the deceased to be Rs.34,592.07/-. The professional tax of amounting to Rs.1,560/- was not deducted from the said income. He further argued that the tax component was also not deducted from the income of the deceased. The tax component would upon Rs.9,210/-i.e. Rs.900/- only. He further argued that the learned Tribunal has awarded the compensation along with general damages which is Rs.2,50,000/- more to the direction of the Hon'ble Supreme Court in **Pranay Shetti.** So, in this case the award passed by the learned Tribunal is erroneous and it need be modified.

Learned advocate appearing on behalf of the claimants submits that the learned Tribunal has assigned the reason for assessing the compensation and by virtue of exhibit 10 i.e. pay slip of the deceased . The monthly income was assessed. He further argued that the learned Tribunal has awarded the feliar consortium as well as the compensation towards love and affection towards appellant no.1 who is the wife and she married at the age of 20 years.

Heard the learned advocates and perused the materials on record and perused the Exhibit 10; on the basis of which the income of the deceased was calculated by the learned Tribunal. It appears that the deceased was bank employee and the Allahabad Bank has issued the pay slip for the month of June 2016. The total monthly income was stated in the pay slip to be Rs.34,592.07/-. The professional tax of Rs.1,560/- was deducted. It further appears from the pay slip that the total taxable income of the deceased appears to be Rs.2,59,210/- The income up to Rs.2,50,000/- is exempted. So the taxable income of the deceased appears to be Rs.9,210/- For the first slab, the tax is 10%. So, in this case the tax of the deceased would be Rs.900/-. It further appears to m3 that the learned Tribunal has awarded more compensation towards the general damages i.e. Rs.2,50,000/- which must be restricted according to the **Pranay shethi.**

The total compensation is recusted below:

1. Monthly Salary	: Rs.34,532/-
2. Annual Salary	: Rs.4,15,104/-
3. Less P. Tax and Income Tax	: Rs.2,400/-
	: Rs.4,12,644/-
4. Add Future Prospect 50%	: Rs.2,06,322/-
	: Rs.6,18,966/-
5. Multiplier 16	: Rs.99,03,456/-
6. Less 1/3rd personal exp.	: Rs.33,01,152/-
	: Rs.66,02,304/-
7. Add General Damages	: Rs.77,000/-
	: Rs.66,79,304/-

After calculation the award comes to Rs.66,79,304/-. The award shall carry 6% interest per annum from the date of filing of the claim application i.e. from 16.8.2016.

It appears that the Insurance Company has already deposited the statuary amount of Rs.25,000/- and thereafter again deposited the Rs.98,57,528/-. The total award comes to Rs.98,82,528/-.

The office of the learned Registrar General, High Court, Calcutta is directed to disburse the award passed by this Court along with the interest as directed above from the date of filing of claim application till today and disburse the same to the claimants in equal share within six weeks from this date. After such payment is made the residue in the account of Insurance Company be return back to the Insurance Company on usual terms and conditions.

Accordingly, FMAT(MV) 594 of 2023 is disposed of.

Connected applications, if any, are also disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)