

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. No. 1041 of 2023
The Oriental Insurance Co. Ltd.
Versus
Putul Rani Sahoo & Ors.

Mr. Rajesh Singh ...for the Appellant/Insurance Company.

Mr. Amit Ranjan Roy ...for the Respondent/Claimant.

Heard on: October 7, 2024.

Judgment on: October 7, 2024.

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

The instant appeal has been filed against the judgment and order dated 1st August, 2023 passed by the learned Motor Accident Claims Tribunal-cum-learned Additional District & Sessions Judge, 1st Court (In-Charge) Paschim Medinipur in M.A.C. Case No.551 of 2014.

The learned advocate representing the appellant/insurance company submitted that the widow of the deceased victim renewed the certificate of dealership for operating a ration shop which was earlier operative through the certificate of dealership granted in favour of the husband of the claimant wife i.e. PW1 who continued to function the same till the date of his death. Learned advocate for the appellant/insurance company further stressed that

the widow had been in a position to earn a considerable amount as income from the operation of the said ration shop.

Learned advocate for the claimants/respondents submitted that the renewal of the certificate of dealership granted in favour of the widow of the deceased accorded a new grant of dealership contrary to the renewal of the same.

An application under Section 166 of the Motor Vehicles Act had been filed by the claimants seeking compensation due to the death of the victim aged about 48 years who suffered an accident which occurred on 24th July, 2014 at about 12.30 p.m. near Panchkahania Forest Beat House under Nayagram Police Station District-Purba Medinipur. The victim was a passenger in a pickup van as the owner of the goods belonging to the M.R. Dealer bearing registration no. WB 33B/5660. The said offending vehicle collided with a black berry tree and was overturned whereby the victim sustained injuries succumbing to the same.

The learned Advocate for the appellant/insurance company did not dispute the occurrence of the accident, the involvement of the offending vehicle, the route permit, the insurance policy, etc.

This Court restrict itself exclusively to the issue of quantum of the compensation granted owing to the loss of income sustained by the appellant if at all on the death of the victim.

The document marked as 'Exhibit- 12' is quoted below:

"Licence to a Dealer under the West Bengal Public Distribution System (Maintenance & Control) Order, 2013".

From the said document it appears that a license has been granted in favour the respondent no. 1 in her individual capacity contrary to the claim of the learned advocate representing the appellant/insurance company, in the context of the same being renewed.

PW3, the Chief Inspector Food & Supply in his deposition before the learned Tribunal stated after death of the victim his wife Putul Rani Sahoo got the said license renewed. The issuance of license in favour of the same did not mention the renewal of the license which was earlier granted in favour of the deceased who happened to be the husband of the respondent claimant no. 1. The document as 'Exhibit 14' issued by the concerned department in favour of the deceased victim in the year 2013 in paragraph 11 stated as follows:

"11. The licence will cease to be valid in the event of death or resignation of the licence or re-dissolution of Co-Operative Society/Self".

It is amply clear that the license granted in favour of the deceased victim being license no..MDN(W) JRGM-NYGM-134402200040 has expired. It became invalid on the death of the victim. Therefore, the license issued in favour of the wife of the deceased victim was not a renewal of the earlier license granted in the event of the death of the victim but was an independent license granted in favour of the wife of the deceased victim being respondent no. 1 in her personal or individual capacity. Therefore, there has been a substantial loss of income and the principal amount award computed by the

learned tribunal is accordingly not interfered with. However, the learned advocate for the appellant/insurance company is to pay an interest at the rate of 6% from the date of filing of the claim application till its actual realization.

It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company had deposited the entire awarded amount with an interest of 6 % per annum from the date of filing of the claim application i.e. 34,56,957/- as per the challan filed by the learned advocate for the Appellant/Insurance company.

The learned advocate for the appellant/insurance company is to deposit the amount pertaining to the interest at the rate of 6% per annum from the date of filing of the claim application under Section 166 of the MV Act till the date of its of the principal sum already deposited at the office of the Registrar General High Court at Calcutta.

The learned advocate for the appellant/insurance company is to cumulative amount of principal award as well as cumulative interest thereon lying in the custody of the office of the Registrar General, High Court at Calcutta along with subsequent amount to be deposited for the learned advocate for the appellant/insurance company. In the context of 6 % per cent interest to be computed from the date of filing of the claim application under Section 166 of the Motor Vehicles Act till the date of deposit at the office of the Registrar General, High Court at Calcutta within four weeks after vacation.

The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Motor

Accident Claim Additional District & Sessions Judge, 1st Court (In-Charge) in M.A.C. Case No.551 of 2014 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees.

The learned Tribunal had granted liberty to the appellant/insurance company to recover the compensation award payable from the owner of the offending vehicle and the same is not interfered with.

The instant appeals are disposed of accordingly.

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

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.)