

13.02.2024
SL No.13
Court No. 551
Ali

**IN THE HIGH COURT AT CALUTTA
Civil Appellate Jurisdiction**

FMAT (MV) 814 of 2023

**Anjali Soren & Anr.
Vs.
The National Insurance Co. Ltd. & Anr.**

Mr. Subir Banerjee,
Mr. Sandip Bandhopadhay,
Ms. R.B. Roy,
Mr. Argha Bhattacharjee
.... for the appellants-claimants.
Mr. Rajesh Singh
...for the respondent/Insurance Co.

The appeal is preferred in time.

The Insurance Company has made their
appearance through learned advocate Mr. Rajesh
Singh.

The appeal is otherwise ready for hearing.

Let the matter be taken up for hearing.

FMAT (MV) 814 of 2023

The instant appeal has been preferred
against the judgment and award dated 28th August,
2023 passed by the learned Judge, Motor Accident
Claims Tribunal, Raiganj, Uttar Dinajpur, in MAC
Case no. 64 of 2017.

The learned tribunal has awarded a sum of
Rs. 8,80,500/- in favour of the claimants and
directed the Insurance Company to pay the
compensation.

The learned advocate appearing on behalf of the appellants-claimants submits that the learned tribunal has committed error in assessment of the compensation under the head of the future prospects and the general damages. He argued that the future prospects and the general damages in a case under Section 166 of M.V. Act has been settled by the Hon'ble Apex Court in ***National Insurance Company Vs. Pranay Sethi***. By the direction of the Hon'ble Supreme Court the claimants are entitled to get the general damages and the future prospects. The learned tribunal has committed error by not allowing the general damages or the future prospects under the separate heads. He prayed for just and proper compensation by modifying the award passed by the learned tribunal.

Learned advocate Mr. Singh appearing on behalf of the Insurance Company raised strong objection and submits that the award passed by the learned tribunal is justified. The learned tribunal has considered the income of the deceased to be Rs. 6,000/- per month. There is no evidence on the record regarding the income of the deceased. However, the learned tribunal has categorically pointed out observations and the reasons for awarding the compensation. There is no error apparent in the award passed by the learned tribunal. Moreover, the claimants have already

received the entire awarded sum. At this juncture, the instant appeal is liable to be dismissed.

Heard the learned advocate perused the materials on record it appears to me that the learned tribunal has awarded only Rs. 14,500/- towards the general damages and Rs. 50,000/- towards the future prospects. The Hon'ble Apex Court in ***National Insurance Company Ltd. Vs. Pranay Sethi*** has observed that the general damages would be Rs.70,000/-and in case of a deceased aged below 40 years. Claimants are entitled to get 40% of his establish income towards the future prospects.

Considering the same, I am of the opinion, that the learned tribunal has committed error for not awarding the compensation by virtue of decision of the Hon'ble Apex Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi.***

Considering the same it appears to me that the award passed by the learned tribunal requires modification.

The just and proper compensation of this case is as follows:-

<u>Calculation of compensation</u>	
1. Income	:Rs.6,000/-
2. Add: 40% Future Prospects	:Rs.2,400/-
	:Rs.8,400/-
3. Annual Income	:Rs.1,00,800/-
(Rs.8,400/- X 12)	
4. Less:1/3 rd deduction towards	:Rs.33,600/-
Personal Expenses	

	:Rs.67,200/-
5. Multiplier 17	:Rs.11,42,400/-
(Rs.67,200/- X 17)	
6. Add: General Damages	:Rs.77,000/-
	:Rs. 12,19,400/-
Less: Tribunal Awarded	:Rs. 8,80,500/-
	:Rs.3,38,900/-

After calculation the award comes to Rs. 12,19,400/-. The claimants have already received the awarded amount of Rs.8,80,500/-. The enhanced award comes to Rs.3,38,900/-. The Insurance Company is directed to pay the enhanced amount together with interest @ 6% per annum from the date of filing of the claim application through the office of the learned Registrar General, High Court, Calcutta within six weeks. On such deposit the claimants are entitled to get the enhanced amount together with interest from the office of the learned Registrar General, High Court, Calcutta equally subject to ascertainment of payment of deficit Court Fees.

The office of the learned tribunal shall act upon the certified copy of this order to receive the deficit court fees, if any.

The instant **FMAT (MV) 814 of 2023** is disposed of.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)