04.1. 2024
item No.22
n.b.
ct. no. 551

FMAT 529 of 2020

Shankari Rani Dolai & Ors.
Vs.
The National Insurance Company Ltd. & Anr.

Mr. Amit Ranjan Roy,
.....for the appellants.
Mr. Sanjay Paul,
Ms. Jaita Ghosh,
.... For the respondents.

The instant appeal has been preferred against the judgment and award dated July 16, 2019 passed by the learned Tribunal, Fast Track Court-II, Tamluk, in M.A.C. case No. 73 of 2014.

The brief fact of the case is that the present appellant 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.4,30,000/- towards the compensation along with 6% interest per annum from the date of evidence

Being aggrieved by and dissatisfied with the impugned award, the present application preferred by the claimants before the Appellate Court for enhancement of the compensation.

Learned advocate for the appellant submits that the owner of the offending vehicle was directed to pay the compensation on the ground that the driver of the offending vehicle had no valid driving licence at the time of the accident. He argued that the owner has not satisfied the claim. By virtue of the decision of Hon'ble Supreme Court passed in ***Swaran Singh***, the Insurance Company may be directed to pay the compensation and they may be given liberty to recover the same from the owner. He further argued that the learned Tribunal has not considered the future prospect of the deceased at the time of assessing the compensation. He again argued that the learned Tribunal has awarded the compensation along with 6% interest per annum from the date of evidence. In case of the compensation, the interest portion has to be added from the date of filing of the claim case.

Learned advocate Mr. Pal appearing on behalf of the Insurance Company, submits that the claimants are not entitled to get the future prospect. The age of the deceased was stated to be 60 years. In post-mortem report as well as in the death certificate is evident to that effect. The direction of the Hon'ble Supreme Court in ***Pranay Shetty*** has made specific that the deceased up to the age of 60 years are entitled to get future prospect. The deceased was at the age of 60 years, the post-mortem report as well as death certificate cannot be considered to be a true document of age. The age of the deceased is more than 60 years, so he is not entitled to get any future prospect.

Heard the learned advocates perused the post-mortem report as well as the death certificate placed along with paper book. In all cases, the age of the deceased was stated to be 60 years. I do not find any document to substantiate the claim of the Insurance Company. There is nothing to believe that the deceased was more than 60 years of age at the time of accident.

Considering the same, I am of the view that the claimants are entitled to get the future prospect which would be 10% of his established income.

It is true the Hon'ble Supreme Court has specified the fact that when the driver had no valid licence at the time of accident and the vehicle was well-covered under the policy of the Insurance Company, the Insurance Company may be directed to pay the compensation. The Insurance Company would be at liberty to recover the same from the owner of the offending vehicle according to the procedure laid down by the Hon'ble Supreme Court in ***Swaran Singh.***

According to the above observation, the award passed by the learned Tribunal need be modified. Just the proper compensation is assessed below:

1. Monthly income	Rs.5,000/-
2 Annual income (5000 X 12)	Rs.60,000/-
3. Add 10% Future Prospect	Rs.6000/-
	Rs.66,000/-
4. Less 1/3rd deduction	Rs.22,000/-
	Rs.44,000/-
5. Multiplier 9 (44,000 x 9)	Rs.3,96,000/-
6. Add General Damages	Rs.70,000/-
	Rs.4,66,000/-

After calculation, the award comes to Rs.4,66,000/-

The learned Tribunal has held that the claimants has taken several adjournments during the proceeding before the learned Tribunal. However, it appears that the learned Tribunal had also allowed the adjournments in all occasions without any specific rider. However, the statutory direction is already there to pay the compensation from the date of filing of the claim application. Accordingly, the observation of the learned Tribunal cannot be considered to be correct.

The Insurance Company is directed to pay compensation along with 6% interest per annum from the date of filing of the claim application.

Insurance Company is directed to pay the above mentioned awarded amount to the claimant through the office of Learned Registrar General, High Court, Calcutta within six weeks from the date of passing of the order.

The office of the learned Registrar General, High Court, Calcutta shall disburse the amount in name of the claimants with equal four account payee cheques subject to ascertainment of payment of deficit court fees.

Accordingly, FMAT 529 of 2020 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.)