28 Ct 3 RUP/ KS

01.08 2024

IN THE HIGH COURT, CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION

F.M.A. 10 of 2024

Swapan Sarkar & Anr.
Versus
Achintya Kumar Dey & Anr.

Mr. Uday Sankar Sarkar.
..... For the appellant.

Mr. Bipul Ranjan Bhattacharjee.
.... for the respondent No.2/Insurance Company.

1. This appeal is directed against the judgment and award passed in Motor Accident Claim Case No. 408 of 2021 passed by the Motor Accident Claim Tribunal 3rd (Special) Court, Jalpaiguri, whereby learned Tribunal awarded the compensation to the tune of Rs. 3,47,200/-.
2. There is no dispute regarding accidental death of Tapan Sarkar by the involvement of one vehicle (bus) being registration no. WB-63-1837 which was proceeding toward Dhubguri from Maynaguri with high speed in rash and negligent manner. At the time of accident, the said Tapan Sarkar was standing on the remote corner of Dhubguri-Maynaguri Pakka Road.
3. Learned counsel on behalf of the appellants submitted that learned Tribunal computed the

compensation in terms of notional income of Rs.3,000/- for the accident happened in the year 2020 whereas in case of **Muhammed vs. United Indian Insurance Company Limited & Ors.** reported in **2023 ACJ 894,** Hon'ble Apex Court relied on notional income of Rs.6,000/- in dealing with an accident alleged to have been taken place in the year 2008.

4. Learned counsel on behalf of the appellants has further submitted that future prospect has not been awarded along with compensation in spite of settled principle of law laid down in the case of ***National Insurance Co. Ltd vs. Pranay Sethi and Ors.*** reported in ***2017 ACJ 2700.***

5. That apart, interest has not been awarded in terms of Section 171 of the Motor Vehicles Act, 1988.

6. Learned counsel on behalf of the opposite party No.2/Insurance Company, in his usual fairness, submitted that Hon'ble Apex Court laid down the principle for awarding future prospect along with award in a claim case.

7. In that view of the matter, I am to modify the award in the following manner:-

1. Monthly Income be assessed as Rs.6,000/-
2. Annual Income be assessed as Rs.72,000/-
3. Add Future Prospect be assessed 25% i.e. Rs.18,000/-

4. Total Income i.e. Rs.90,000/-

5. Deduction 1/2th on account of

personal living expenses Rs.45,000/-

6. Total Rs. **Rs.45,000/**

7. Use of Multiplier as per age of

(Rs.45,000/- X 14) = Rs.6,30,000/-

8. Add General Damages including
loss of consortium, Loss
of estate and funeral expenses Rs. 30,000/-

9. Total **Rs.6,60,000/-**

8. Therefore, the claimants are entitled to get the compensation to the tune of Rs.6,60,000/- along with simple interest @ 6% per annum from the date of filing of the claim application on entire compensation.

9. Respondent No.2/Insurance company has submitted that claimants have already received the awarded sum of Rs.3,47,200/- passed by the Tribunal.

10. Therefore, the claimants are entitled to get balance enhanced amount to the tune of Rs. (6,60,000- 3,47,200) = Rs. 3,12,800/-

11. Insurance Company is directed to pay balance enhanced compensation amount of Rs.3,12,800/- along with simple interest @ 6% per annum on entire awarded compensation from the date of

filing of the claim application by issuing two cheques in equal proportion before the learned Tribunal within six weeks from date.

12. Learned Tribunal is requested to disburse the said cheques to the claimants accordingly on proper identification and proof.

13. With the above observation, the appeal being F.M.A. 10 of 2024 stands disposed of.

14. All pending applications, if there be any, stands disposed of.

15. Department is directed to communicate this order to the learned Tribunal immediately.

16. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)