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20.08.2025
Ct. No. 16

FMA 2513 of 2005

Sri Bhrigu Nath Singh
Vs.
United India Insurance Company Ltd. & Anr.

Mr. Krishanu Banik Mr. Tathagata Banik	for the appellant
Mr. Arabinda Kundu	for the respondents

Dictated by the Hon'ble Justice Apurba Sinha Ray:-

1. The judgment and award dated 31.05.2005 passed by the Learned Commissioner, Workmen's Compensation (2nd Court), West Bengal, in Claim Case No. 175 of 1997 was challenged by the appellant on the grounds that the learned Commissioner committed a grave error in law and fact in awarding the inadequate compensation of Rs. 28,077/- (Rupees Twenty Eight Thousand Seventy Seven Only) towards the victim injured in respect of his motor accidental injury occurred on 07.05.1996 without considering the statutory guidelines of the Workmen's Compensation Act, 1993 (as amended up to date) and as such the impugned award is bad in law and the same is liable to be enhanced and modified. It is also alleged that while assessing the percentage of disablement of the victim the learned Commissioner ought to have considered that

whether the disablement is permanent or total. It is also contended on behalf of the applicant that the learned Commissioner was wrong in relying upon the inadmissible evidence and as such the impugned order is bad in law and the same is liable to be modified.

2. The learned counsel appearing on behalf of the insurance company has submitted that the impugned award was correctly passed and there is no scope for further modification or enhancement of the award as prayed for by the appellant.

3. We have gone through the materials on record including the relevant application for compensation, the evidence recorded by the learned Commissioner and also the exhibited documents. It is true that learned Commissioner has relied upon the submission of the insurance company that as the claimant has renewed his driving license after the accident the same goes to show that he is totally capable of driving motor vehicle. In this regard, the learned Commissioner has also relied upon a case law reported in 2000 (ii) LLJ at page 80 (Gopinath Vs. United India Insurance Company Limited). It is true that the learned Commissioner did not rely upon the medical certificate which has been marked as exhibit – 5 and proved by the PW-3, Dr. H.K. Mookerjee. In our considered opinion every human being has his own hope and dreams. Even an injured person can rear

the hope that one day he would become a normal person free from injuries sustained after his treatment is being carried out. Therefore, with such hope if the said injured person renews his driving license, the same does not ipso facto prove that he has become a normal and fit person and is able to pursue his avocation. Therefore, we are not ready to accept such observations of the learned Commissioner. We have also found that there are certain defects in the said award since though the PW-3 has categorically stated that the injured had permanent partial disablement to the extent of 100%, the learned Commissioner has come to the findings that such disability cannot be held to be more than 15%. In assessing the 15% disability of the claimant, the learned Commissioner did not give any reasonings or factors upon which he has come to the findings that the claimant/petitioner has only 15% disability. Therefore, we think that there is a need for modification of the award.

4. Though the claimant has submitted that he is entitled to Rs. 1,92,000/- (Rupees One Lakh Ninety Two Thousand Only), minus the amount already received i.e. Rs. 28,077/- (Rupees Twenty Eight Thousand Seventy Seven Only), after taking into account of the material documents including medical bills i.e. Exhibit – 2 series, and other documents, we find that a sum of Rs.

60,000/- (Rupees Sixty Thousand Only) will be appropriate in view of the facts and circumstances narrated before us. Therefore, the award dated 31.05.2005 passed by the Learned Commissioner, Workmen's Compensation (2nd Court), West Bengal, in Claim Case No. 175 of 1997 is hereby modified to the extent that the total amount of award should be Rs. 60,000/- (Rupees Sixty Thousand Only) along with an interest of 12% per annum over the total claim as prayed for from the date of filing of the claim application. The initial amount received by the appellant be deducted from the total amount of Rs. 60,000/- (Rupees Sixty Thousand Only).

5. Accordingly, the respondent no. 1, United India Insurance Company Limited is directed to disburse the aforesaid balance sum of compensation within one month from this date, in default the amount will carry a simple interest at the rate 9% after one month of the appointed day till the date of realisation.

I agree **(Apurba Sinha Ray, J.)**

(Soumen Sen, J.)