(2018) 05 GAU CK 0137

In the Gauhati High Court

Case No : MACApp. 129 of 2015

Musstt Sokina Khatun APPELLANT

Vs

Reliance General Insurance Co Ltd And Anr RESPONDENT

Date of Decision : 23-05-2018

Acts Referred:

Citation : (2018) 05 GAU CK 0137

Hon'ble Judges : MIR ALFAZ ALI, J

Bench : Single Bench

Advocate : A R Agarwala, R. Goswami

Final Decision : Allowed

Judgement

1. Heard Mr. A.R.Agarwala, learned counsel for the appellant and Mr. R. Goswami, learned counsel for the respondent No. 1.

2. This appeal is filed by the claimant against the judgment and award dated 23/05/14 passed by MACT, Goalpara in MAC Case No. 407/2008.

3. One Nazrul Islam @ Nazrul Hoque died in a motor vehicle accident on 01/10/2008 involving the vehicle bearing registration No. AS-18A/4268,

owned by the respondent No. 2 and insured with the respondent No. 1 Reliance General Insurance Insurance Co. Ltd.

4. On application filed by the legal representatives of the deceased, learned tribunal granted a compensation of Rs. 10,33,400/-, which comprised or

Rs. 7,68,000/- on account of loss of dependency, 2,30,400/- on account of future prospects being 30% of the income and Rs. 35,000/- on account of

conventional heads like loss of consortium, funeral expenses etc.

5. Unsatisfied with the above award, the claimant/appellant preferred the instant appeal praying for enhancement of the compensation.

6. Learned counsel for the appellant, Mr. Agarwala submits that the age of the deceased was 35 years at the time of accident and as such, 40% of

the income ought to have been added as future prospects in view of the decision of the Apex Court in National Insurance Co. Ltd. â?"VS- Pronoy

Setty and Ors. reported in (2017) 14 SCC 663. However, the learned tribunal added only 30% as future prospects to the income of the deceased. It is

also contended that the quantum of amount granted on account of conventional heads was also extremely low and deserves to be enhanced. Further

contention of the learned counsel is that the interest awarded by the learned tribunal was directed to be given from the date of evidence, which ought

to have been from the date of filing of the claim petition.

Apparently the quantum of future prospects added by the learned tribunal appears to be not in conformity with the guidelines laid down by the Apex

Court in National Insurance Co. Ltd. - VS- Pranoy Sethi (supra), and as such, the claimant is entitled to addition of 40% future prospects to the actual

income. So far the quantum of amount towards conventional heads are concerned, learned tribunal granted only Rs. 35,000/- which also requires to be

enhanced and accordingly, the quantum of compensation on the conventional heads like loss of consortium, funeral expenses and loss of estate are

enhanced to Rs. 40,000/-, Rs. 15,000/- and Rs. 15,000/- respectively.

7. With the above enhancement in the quantum of award on conventional heads and future prospects, the enhanced compensation, to which the

claimant shall be entitled is re-assessed as under :-

Loss of dependency = Rs. 7,68,000/-

Future Prospects = (40% of Rs. 7,68,000/-) = Rs. 3,07,200/-

Loss of Consortium = Rs. 40,000/-

Loss of Estate = Rs. 15,000/-

Funeral Expenses = Rs. 15,000/-

Total = Rs. 11,45,200/-

8. The interest awarded by the tribunal shall be paid from the date of filing of the claim petition. Amount of future prospects shall not carry any

interest.

9. The Insurance Co. shall satisfy the above compensation with interest as indicated above by depositing the same with the tribunal within six weeks.

The tribunal shall ensure that 40% of the awarded amount including the interest be fixed deposited in the name of the claimant in a nationalized bank

for two years and 30% be fixed deposited for a period of one year in a nationalized bank. Rest of the amount be released by account payee cheque in

favour of the claimant.

10. The appeal stands allowed with the enhancement as indicated above.

11. Send back the LCR.

