(2015) 01 CAL CK 0082

In the Calcutta High Court

Case No : F.M.A. No. 4444 of 2014 and CAN No. 1747 of 2014

National Insurance Co. Ltd. APPELLANT

Vs

Chandi Banerjee and Others RESPONDENT

Date of Decision : 06-01-2015

Acts Referred:
Motor Vehicles Act, 1988 — Section 163-A, 166

Citation : (2015) ACJ 2524

Hon'ble Judges : Jyotirmay Bhattacharya and Tapash Mookherjee, JJ.

Bench : Division Bench

Advocate : Afroze Alam, for the Appellant; Amit Ranjan Roy, for the Respondent

Final Decision : Dismissed

Judgement

Jyotirmay Bhattacharya, J.—This miscellaneous appeal is directed against an award passed by Motor Accidents Claims Tribunal, 1st Court, Burdwan on 23.9.2013 in M.A.C. Case No. 3 of 2012 at the instance of the insurance company. Here is the case where the claimant applied for compensation on account of death of her son who died in a motor accident on 28.11.2011. The victim was the khalasi of a truck. He was a bachelor. At the time of his death, he was aged about 26 years.

2. The claimant applied for compensation under section 163-A of the Motor Vehicles Act.

3. Following the structured formula framed under section 163-A of the Motor Vehicles Act, the learned Tribunal passed an award of Rs. 3,60,000 and directed the insurance company to pay the compensation of Rs. 3,60,000 along with 6 per cent interest from the date of filing of the said application till recovery of the compensation amount. Such payment was assessed by the learned Tribunal by accepting the multiplier of 18 and the income of the deceased as Rs. 3,000 per month.

4. In this appeal, the appellant insurance company has not disputed the income

of the deceased as claimed in the claim petition. The age of the victim at the time of his death is also not disputed. The dispute is with regard to the selection of the multiplier. According to the appellant, the multiplier should have been selected by the learned Tribunal by considering the age of the applicant, viz., the mother of the victim. The mother of the victim was aged about 59 years at the time of death of the victim. Thus, the insurance company claims that the multiplier of 8 should have been selected in the instant case for assessing compensation payable to the applicant.

5. Mr. Afroze Alam, learned advocate appearing for the insurance company, has cited the following two decisions of the Hon''ble Supreme Court in support of his aforesaid contention:

(1) In the case of Ramesh Singh and Another Vs. Satbir Singh and Another, .

(2) In the case of National Insurance Company Ltd. Vs. Shyam Singh and Others, .

6. Mr. Roy, learned advocate appearing for the claimant, referred to a decision of the Hon''ble Supreme Court in the case of M. Mansoor and Another Vs. United India Insurance Co. Ltd. Another, , wherein the Hon''ble Supreme Court while considering the application under section 166 of the Motor Vehicles Act held that the multiplier should be selected on the basis of the age of the victim and not with reference to the age of the parents in case the victim died bachelor.

7. We have considered the respective contentions of the learned advocates appearing for the parties and the decisions cited at the Bar.

8. Here is the case where we find that the claimant had applied for compensation under section 163-A of the Motor Vehicles Act. Though there were some errors in the Second Schedule framed under section 163-A of the Motor Vehicles Act but there is no doubt that the assessment of compensation was suggested on the basis of the multiplier to be selected with reference to the age of the victim.

9. In the structured formula, we do not find any reference to selection of multiplier with reference to the age of the claimant. As such, we hold that while assessing the compensation under section 163-A of the Motor Vehicles Act, multiplier should be selected with reference to the age of the victim and not with reference to the age of the claimant.

10. The learned Claims Tribunal, in our considered view, did not commit any illegality in assessing compensation payable to the claimant by selecting multiplier of 18 in the instant case as the victim at the time of his death was aged about 26 years.

11. We do not find any apparent illegality in the order impugned.

12. The appeal thus fails.

13. We are informed by Mr. A. Alam, the learned advocate appearing for the

appellant insurance company, that a sum of Rs. 25,000 being statutory deposit for maintaining the appeal has already been deposited with the learned Registrar General of this Hon''ble court.

14. The appellant insurance company is permitted to withdraw the statutory deposit. The appellant insurance company is, thus, directed to deposit the entire awarded compensation, together with interest in terms of the award passed by the learned Tribunal, with the Tribunal to the credit of the claimant within four weeks from date with liberty to the claimant to withdraw the same upon compliance of all the necessary formalities.

15. In view of the disposal of the appeal itself, no further order need be passed on the stay application which is deemed to be disposed of.

16. The application for stay being CAN No. 1747 of 2014 is, thus, deemed to be disposed of. Urgent certified photocopy of this order, if applied for, be supplied to the learned advocate for the appellant immediately.