(2019) 09 CAL CK 0321

In the Calcutta High Court

Case No : C. Appeal From Order (FMA) No. 599 Of 2018

Sattar Ali & Ors — APPELLANT

Vs

National Insurance Co. Ltd. & Anr — RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Citation : (2019) 09 CAL CK 0321

Hon'ble Judges : Sanjib Banerjee, J;Suvra Ghosh, J

Bench : Division Bench

Advocate : Jayanta Kumar Mandal, Saibalendu Bhowmik

Final Decision : Disposed Of

Judgement

The appellants seek enhanced compensation.

The appellants complain that the notional income of the victim was taken to be a lowly amount of Rs.3,000/-, though the victim worked in the zari industry and earned well in excess of Rs.4,500/- per month. The other grievances are in the multiplier of 13 being applied when the appropriate multiplier was 17 and in general damages not being awarded.

Since the accident was of the year 2012 and there was no cogent evidence as to the victim's income, the base figure of Rs.3,000/-applied by the tribunal does not appear to be erroneous. However, the tribunal ought to have applied the appropriate multiplier of 17 and the tribunal ought to have awarded general damages.

Accordingly, upon correcting the tribunal's errors, the gross compensation works out to Rs.4,58,400/- together with interest thereon at the rate of 8% per annum from the date of lodging the claim till the receipt of payment. The particulars are indicated hereinbelow.

Since the annual income of the victim was taken to be Rs.36,000/-, 40% has to be added on account of future prospects. Out of the total notional annual income of Rs.50,400/-, half has to be deducted on account of personal expenses since the victim died a bachelor. On the remaining Rs.25,200/-, the multiplier of 17 will apply. The net compensation comes to Rs.4,28,400/-. Upon adding another Rs.30,000/- on account of loss of estate and funeral expenses, the total comes to Rs.4,58,400/-.

The claimants acknowledge having received the awarded amount together with interest thereon as provided by the tribunal.

The insurance company will calculate the balance amount due in terms of this order, including on account of interest, corrected upto October 31, 2019 and make over such amount to the claimants in equal share by November 15, 2019. The amounts due to each of the claimants will be deposited directly into their bank accounts. For such purpose, Advocate for the claimants will forward the details of the bank accounts of the individual claimants to Advocate for the insurance company within a fortnight from date.

FMA 599 of 2018 is disposed of.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.