(2019) 09 CAL CK 0309

In the Calcutta High Court

Case No : C. Appeal From Order (FMA) No. 1139 Of 2019, Adms. C. Appl Order (FMAT) No. 526 Of 2018

Shilpi Barman And Others APPELLANT

Vs

Reliance General Insurance Co. Ltd. And Another RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Citation : (2019) 09 CAL CK 0309

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

Bench : Division Bench

Advocate : Subir Banerjee, Sandip Bandyopadhyay, Ruxmini Basu Roy, K.K. Das

Final Decision : Disposed Of

Judgement

The technical defect pointed out in the vakalatnama is condoned since there does not appear to be any inter se disagreement between the claimants and the second appellant is the minor son of the first appellant. The word 'minor' in parenthesis is deleted from the description of the appellant no.3.

The appeal is for enhancement of compensation upon the 27-year-old husband of the first appellant herein being killed in a motor accident in November, 2016. The appellants say that the income was taken to be a low figure of Rs.3,000/- per month, the tribunal failed to take future prospects into account and the tribunal awarded a nominal amount on account of general damages.

Since a notional income has to be attributed to the victim at the time of his death, particularly as such figure is the base figure for calculating compensation, when there is no cogent evidence as to the income of a person, the monthly wages earned by an unskilled worker may be the appropriate yardstick to go by. In fact, it is now a practice in this court to take the base figure as Rs.5,000/- from or about the year 2016 since an unskilled worker working every day of the month can earn Rs.5,000/- a month.

Accordingly, the income attributed to the victim at the time of the accident in

November, 2016 has to be enhanced from Rs.3,000/- to Rs.5,000/- and the compensation assessed on such basis. Since the victim was aged 27, forty per cent of his income had to be taken towards his future prospects. Upon annualising the monthly income of the victim, adding 40% on account of future prospects and deducting one-third on account of personal expenses from the same, the figure arrived is Rs.56,000/- on which the multiplier of 17 would apply for the net compensation amount of Rs.9,52,000/-. After adding a further amount of Rs.70,000/- by way of general damages, the gross compensation works out to be Rs.10,22,000/-. The claimants will be entitled to interest on such gross compensation at the rate of 8% per annum from the date of lodging the claim till the receipt of payment.

The claimants acknowledge having received Rs.4,78,000/-together with interest as awarded by the tribunal.

The insurance company will calculate the balance amount due to the appellants in terms of this order, corrected up to October 31, 2019, and make over the same in equal share to the individual bank accounts of the claimants by November 15, 2019. For such purpose, Advocate for the claimants will forward the bank account details of the claimants to Advocate for the insurance company within a month from date.

FMA 1139 of 2019 is disposed of as above, but without any order as to costs.

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