10.12.2020
Ct. 13
Sl. 90
Sp.

F.M.A. No. 934 of 2013
With
C.A.N. 1 of 2020
(Old No. CAN 1021 of 2013)
with
CAN 2 of 2020
(Old No. CAN 2740 of 2019)

Smt. Tista @ Babin Bhowmick & Ors.
-Versus-
The National Insurance Company Limited & Anr.

Mr. Subir Banerjee,
Ms. Rukmini Basu Roy
...for the claimant/appellants

Mr. M.P. Chakraborty,
Ms. Swarnali Biswas
...for the insurance company

Re: CAN 2740 of 2019

This is an application to record that the appellants nos. 2 and 3 have attained majority. The same is allowed.

Leave is granted to the advocate on record for the appellant to make suitable amendments in the cause title in this regard.

CAN 2740 of 2019 is disposed of.

Re: FMA 934 of 2013

The appeal is directed against the judgement and order dated December 22, 2006 passed by the learned 15th Judge, Motor Accident Claims Tribunal at Alipur in MAC Case No. 290 of

2006.

The facts of the case are not disputed by the counsel and hence not repeated again. Only three grounds are urged in the appeal are

(I) The rule of assessment of the income of a person who is not able to produce reliable evidence in that regard should be treated as Rs.3,000/- per month. The tribunal has assessed the monthly income of the deceased of Rs.1250/-.

(II) The future prospect ought to be 40 per cent of the total yearly income since the victim was 36 years old whereas the tribunal has not assessed the same.

(III) The tribunal also urged in failing to award the general damages as laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi reported in (2017) 16 SCC 680**.

This Court is inclined to accept all the three grounds urged by the appellants.

Learned counsel for the Insurance Company in all fairness has also agreed to the errors committed by the court below. He further argues by the multiplier applied by the Court below is also incorrect and should have been 16 instead of 15, which is conceded by the appellant.

In view of the above, the compensation payable to the appellants is recalculated in the following manner.

Income per month		**Rs.(3,000 x 12)**
	=	**Rs. 36,000/-**
Add:: 40% future prospect	=	Rs. 14,400/-
		Rs. 50,400/-
Multiplier (age 36 years)		x 15
		Rs.7,56,000/-
Less: Deduction of 1./3rd		Rs.2,52,000/-
(+) General Damages	=	Rs. 70,000/-
Total Compensation		**Rs. 5,74,000/-**

On the aforesaid sums of Rs. 5,74,000/-, appellants will be entitled to interest @7% per annum on and from the date of filing of the claim petition till the date of the actual receipt, minus Rs. 1,69,500/- or any sums he may be found to have received.

The sums of money payable after deduction as indicted herein above shall be made over to the bank accounts of the appellants in the proportion as ordered by the Tribunal below. Particulars of the bank accounts of the appellants shall be furnished by counsel for the insurance company and payment shall be made within 45 days of such particulars having been furnished.

With the aforesaid directions, the instant appeal and the connected application are disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties.

(Rajasekhar Mantha, J.)