

15.12.2020
Item No. DL-122
Ct-13
(AD)

(Via Video Conference)

FMA 950 of 2012
with
IA No.:CAN 1 of 2020 (Old No.:CAN 2704 of 2020)
(CAN not in the file)

Smt. Parul Bala Biswas
Vs.
Oriental Insurance Company Ltd. & Anr.

Mr. Subir Banerjee
Ms. Ruxmini Basu Roy
... for the Appellant

Ms. Suchorita Paul
...for the respondents.

The instant appeal is directed against the judgment and award dated 16th August, 2011 passed by the Motor Accident Claims Tribunal, Additional District and Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur in M.A.C. Case No.254 of 2006 (Smt. Parul Bala Biswas vs. Mr. Nikhil Kumar Roy & Anr.)

The facts of the case are undisputed by the parties and hence the same are not separately set out hereinbelow.

At that time of the accident the victim was 18 years old and a bachelor. The Tribunal appears, however, to have erred in taking into consideration the age of the mother of the victim for the purpose of calculation of the multiplier. The Tribunal also failed to consider and award future prospects. There is, further error,

inasmuch as, the Tribunal has taken into consideration the income of the victim to be Rs.1250/- as proposed by the standard practice as to the dictum of the Hon'ble Supreme Court that in the event the same should be treated as Rs.3,000/- per month, since the victim died in the year 2006.

Considering the decision of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi reported in (2017) 16 SCC 680** and applying the principles laid down therein, the compensation payable to the appellant is recalculated and the impugned award is modified as follows:

Monthly income	=	Rs. 3,000.00
Yearly income (3,000 x 12)	=	Rs. 36,000.00
Less: Deduction 50% since The deceased was a bachelor	=	<u>Rs. 18,000.00</u>
		Rs. 18,000.00
(+) 40% future prospects	=	<u>Rs. 7,200.00</u>
		Rs. 25,200.00
Multiplier		<u>x 18</u>
		Rs. 4,53,600.00
(+) General Damages	=	<u>Rs. 30,000.00</u>
Total Compensation		Rs. 4,83,600.00
Less awarded amount	=	<u>Rs. 1,64,500.00</u>
Differential amount	=	Rs. 3,19,100.00

The total sum of money payable to the appellant is Rs.4,83,600/-, out of which a sum of Rs.1,64,500/- together with interest already received by her shall stand deducted. The total differential sum payable to the appellant is Rs.3,19,100/-, shall carry interest at the rate of 7% per annum and on and from the date of

filing of the claim petition in the court below, till the date of payment.

The said sum shall be paid into the bank account of the appellant, particulars whereof shall be supplied by the counsel for the appellant to the counsel for the insurance company within 45 days thereof.

In default of making payment within the stipulated time hereinabove, the rate of interest shall increase to 8% per annum.

With the aforesaid observations, the appeal is disposed of.

Lower Court Record, if any, may be returned back to the court below.

No order as to costs

Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)