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F.M.A. 472 of 2020

(Via Video Conference)

Minor Debjyoti Sen & anr.
Vs.
National Insurance Co. Ltd. & anr.

Mr. Krishanu Banik
...For the Appellants/claimants
Ms. Sucharita Paul
... For the respondent no.1/insurance co.

This appeal has been filed against the judgement and order dated 30th April, 2014 passed by the learned Additional District Judge cum Motor Accident Claims Tribunal, (Redesignated) Court, Bankura in M.A.C. Case No.06 of 2014/27 of 2013 in a claim under Section 166 of the Motor Vehicles Act, 1988.

The appellants submit that the deceased victim was earning Rs.4,000/- per month as a private tutor. However, the learned Tribunal erroneously took monthly income of the deceased as Rs.3,000/-. The appellants further submit that the multiplier in the instant case should be 16 instead of 15, which has been adopted by the learned Court below. It is also argued that the appellants are entitled to 40% future prospect on the income of the deceased and a total sum of Rs.30,000/- under the collective heads of general damages. The appellants rely on the dictum of Hon'ble Supreme Court in **Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.,** reported in **(2009) 6 SCC 121** and **National**

Insurance Co. Ltd. Vs. Pranay Sethi & ors., reported in **(2017) 16 SCC 680** in support of their arguments.

Mrs. Paul, learned Advocate appearing on behalf of the insurance company argues that the learned Tribunal was correct in accepting the income of the victim as Rs.3,000/- in absence of any documentary evidence.

It is now accepted in this Court for sometime that from the year 2011 to 2014 the base income has to be taken as Rs.4,000/- per month. Moreover, such amount of Rs.4,000/- per month does not appear to be exorbitant at all as for the year 2012 an unskilled worker working on all days could have earned Rs.4,000/- per month. Accordingly, on such basis in my opinion, monthly income of the victim should be taken as Rs.4,000/-. The other grounds taken by the appellants are also allowed.

Accordingly, after considering the submissions as advanced by the learned Advocates for the parties, the impugned award is modified and reassessed as follows :-

Particulars		Amount
Monthly income		Rs.4,000/-
Add : 40% future prospects	(+)	Rs.1,600/-
		Rs.5,600/-
Annual income (Rs.5,600/- X 12)		Rs.67,200/-
Less : Personal expenses 1/3rd	(-)	Rs.22,400/-
		Rs.44,800/-
Multiplier '16' (Rs.44,800/- X 16)		Rs.7,16,800/-
Collective heads of general damages	(+)	Rs.30,000/-
		Rs.7,46,800/-
Less : Awarded amount	(-)	Rs.3,60,000/-
Differential amount		Rs.3,86,800 /-

The claimants acknowledge receipt of the entire awarded amount of Rs.3,60,000/- along with interest. The balance amount of Rs.3,86,800/- would become payable to the claimants by the insurance company together with interest assessed @ 6% per annum from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank account particulars of the claimants. Learned Advocate for the claimants/respondents shall furnish particulars of bank account details of the claimants with a fortnight from date to the learned Advocate for the insurance company. The payment shall be made in the same manner and proportion as per award.

With the aforesaid directions, the instant appeal is disposed of. There will be no order as to costs.

In view of disposal of this appeal, connected application, if any, is also disposed of. The concerned Department is directed to tag the application, if any, with the main appeal.

L.C.R., if any, be returned back to the Court below.

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

(Shekhar B. Saraf, J.)