

S/L 20
13.7.2021
Court No.26
SD

FMA 378 of 2021
(Via Video Conference)

Anju Nath & Anr.
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

...for the Appellants/Claimants.

Mrs. Sucharita Paul

...for the Respondents/Insurance Co.

The instant appeal has been filed by the appellants/claimants, being the parents of the victim, against an award dated February 17, 2020, passed by the Learned Judge, Motor Accident Claims Tribunal, 3rd Court, Krishnagar, Nadia, in M.A.C. Case No. 54 of 2017, on a claim under Section 163A of the Motor Vehicles Act, 1988, for an accident which took place on January 15, 2017.

The appellants submit that the Court below erroneously deducted 1/2 on account of personal expenses for the 13 year old minor victim. The same should be 1/3rd as provided under section 163A of the Motor Vehicles Act, 1988. The appellants rely on the dictum in ***Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.***, reported in **(2009) 6 SCC 121** as affirmed in ***Reshma Kumari*** reported in **(2013) 9 SCC 65** to suggest that the applicable multiplier in the instant case would be 20 and not 15 as applied by the tribunal.

The insurance company is represented and argues that the amount under the collective heads of general damages should have been restrained to Rs.4,500/-. The learned Court below had wrongly awarded a total sum of Rs.15,000/- on such heads.

Accordingly, after considering the submissions of

counsel appearing on behalf of the parties, the impugned award is modified and reassessed as follows:

<u>Particulars</u>	<u>Amount (Rs.)</u>
Notional Yearly income	15,000.00
Less: 1/3 rd personal expenses	(-) 5,000.00
	10,000.00
Multiplier of 20 to be used	(x) 20
	2,00,000.00
Collective heads of General Damages	(+) 4,500.00
	2,04,500.00
Less: Awarded amount	(-) 1,65,000.00
Differential amount	39,500.00

The claimants acknowledge receipt of the entire awarded amount of Rs.1,65,000/- along with interest. The balance amount of Rs.39,500/- would become payable to the claimants by the Insurance Company together with interest assessed @ 6 per cent 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. Advocate for the claimants will forward the bank account details of the claimants within a fortnight from date to Advocate for the insurance company. The payment shall be made in the proportion decided by the Court below.

With the aforesaid directions, the instant appeal is disposed of.

There shall be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)