Ct. No. 26

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F.M.A. 1107 of 2011
Smt. Chanpa Ghosh & Ors.
Vs.
Ahamed Mondal & Anr.
(Via Video Conference)

Mr. Jayanta Banerjee ...For the Appellants/Claimants

Mr. Parimal Kumar Pahari ...For the Respondent/Insurance Co.

This appeal is directed against the judgment and award dated December 12, 2008 passed by the learned Judge, Motor Accident Claims Tribunal, Special Judge cum Additional District Judge at Durgapur, Burdwan, in M.A.C. Case No. 62 of 2011 / 50 of 2009.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants/claimants that they were not granted any amount under 'future prospect' as per present position of law. Claimants took the plea that the income of the victim was Rs.10,000/- per month at the time of accidental death of the victim, as during his lifetime he was earning the same as business man of Grocery shop and the learned Tribunal arbitrarily took the income to be Rs. 3,000/- per month without considering the fact that the victim was a proprietor of grocery shop. The learned Tribunal also wrongly deducted 1/3rd instead of 1/4th towards personal expenses of the victim as the number of claimants are four (4) and the multiplier would be 9 instead of 8. Lastly, claimants submits that they were given only Rs.9,500/- instead of Rs.70,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the learned Advocate representing the insurance company argues that in the facts and circumstances of the case, the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements of ***Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.,*** reported in **(2009) 6 SCC 121**; and ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.,*** reported in **(2017) 16 SCC 680,** I find substance in the arguments of the appellants. Appellants are justified in praying for addition on account of 'future prospect' on the income of the deceased. Since age of the victim was below 56 years as held by the tribunal below so future prospect will be 10% as rightly pointed out by Mr. Mandal. The deduction towards personal expenses of the victim will be $1/4^{th}$ instead of $1/3^{rd}$ since number of claimants/dependents are four. Since it is now the practice of this court to take Rs.3000/- as the base income even if there is no cogent evidence as to the income, particularly from the year 2004 onwards up-to the year 2011 as it was possible for an unskilled worker in 2006 to earn Rs.3000/- per month by working all days of the month. So this court is also assessing the notional income of the victim as Rs.3000/- per month and Claimants were also entitled to Rs.70,000/- under collective heads of general damages and the multiplier will be 9.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter :-

Monthly Income	**Rs.**	**3,000/-**
Annual Income	**Rs.**	**36,000/-**
Add: Future Prospect 10%	**Rs.**	**3,600/-**
	Rs.	**39,600/-**

Less: 1/4th personal expenses	**Rs. 9,900/-**
Multiplier '9' – (Rs. 29,700 X 9)	**Rs. 2,67,300/-**
Add 'General Damages'	**Rs. 70,000/-**
TOTAL Principal Compensation	**Rs. 3,37,300/-**
LESS – awarded amount already paid	**Rs. 2,01,500-**
Enhanced Principal Amount	**Rs. 1,35,800/-**

The claimants acknowledge receipt of the awarded amount of Rs.2,01,500/- in terms of the direction of the Tribunal.

Accordingly, the balance enhanced sum of Rs.1,35,800/- would become payable to the appellants/claimants by the Insurance Company, together with interest assessed at the rate of 6 per cent per annum on and 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 appellants.

Learned Counsel for the appellants will forward bank account details of the appellants within a fortnight from date to the learned Counsel for the Insurance Company. The payment shall be made to the claimants' bank accounts directly, in the same manner and proportion as decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

There shall be no further order as to costs.

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

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.)