Ct. No. 26

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F.M.A. 1411 of 2018

(Via Video Conference)

Ranak Jahan Sufi & Anr.

Vs.

The Oriental Insurance Co. Ltd. & Ors.

Mr. Ali Imam Shah ...For the Appellants/Claimants

Mr. Sanjay Paul ...For the Respondent/Insurance Co.

The appeal is directed against the judgment and award dated March 04, 2016 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Purba Bardhaman, in M.A.C. Case No. 99/375 of 2013.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. The learned Counsel for the appellants/claimants submit that the learned Tribunal committed error in law while not granting 25% additional income towards future prospect since the deceased was 48 years old as bus conductor.

He further submits that the learned Tribunal committed error in law while granting Rs.7,500/- instead of Rs.70,000/- towards general damages.

Counsel for the appellants/claimants further submits that the learned Tribunal accepted income of the deceased as Rs.4,500/- per month and medical expenditure was taken as Rs.20,000/-, so there is no scope of interference.

In reply, Mr. Sanjay Paul, learned Counsel for the respondent/Insurance Company submits that the award passed by the learned Tribunal is absolutely just and proper and there is no scope of interference and/or modification of the award.

Considering the judgments of the Hon'ble Supreme Court in the cases 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** and also following the practice of this Court on the point of monthly income, I find substance in the arguments of the appellants. Since the accident occurred in the year 2013, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4,500/- per month was taken by the learned Tribunal, this Court is not interfering with it. Appellants are also justified in praying for 25% additional income towards future prospect since the deceased was 48 years old and the general damages shall be taken as Rs.70,000/- instead of Rs.7,500/-.

Considering the ratio as decided in ***Sarala Varma (Supra)*** as well as ***Pranay Sethi (Supra),*** the award passed by the Tribunal is modified and recalculated as follows :

Monthly income	**Rs. 4,500/-**
Annual Income (Rs.4,500 X 12)	**Rs. 54,000/-**
25% Additional income towards Future prospect	**Rs. 13,500/-**
Annual Income (Rs.54,000+13,500)	**Rs. 67,500/-**
Deduction 1/3rd	**Rs. 22,500/-**
Multiplier of 13 (Rs.45,000 X 13)	**Rs. 5,85,000/-**
General Damages	**Rs. 70,000/-**
Medical expenditure	**Rs. 20,000/-**
Total Compensation	**Rs. 6,75,000/-**

Mr. Shah acknowledges that his clients have already received the entire awarded sum of Rs.4,97,500/- together with interest paid by the Insurance Company. Accordingly, the balance enhanced sum of Rs.1,77,500/-

would become payable to the appellants by the Insurance Company together with interest assessed at the rate of 6 per cent per annum from the date of filing of the claim petition within a period of 45 days from the receipt of the particulars of their bank accounts to be supplied by the learned Counsel to the learned Counsel for the Insurance Company.

It is made clear that payments shall be made by NEFT/RTGS in the same manner and proportion as decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

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

There shall be no further order as to costs.

LCR, if any, may 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.)