Ct. No. 26

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F.M.A. 370 of 2011

Smt. Kabita Das & Anr.
Vs.
National Insurance Co. Ltd. & Anr.
(Via Video Conference)

Mr. Krishanu Banik ...For the Appellants /Claimants

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

The appeal is directed against the judgment and award dated February 25, 2010 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 1st Court, Paschim Medinipur, in M.A.C. Case No. 445 of 2007.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Mr. Krishanu Banik, learned Counsel for the appellants/claimants submit that the learned Tribunal committed an error in law while assessing the monthly income of the deceased as Rs.2,000/- per month instead and in place of Rs.3,000/- per month.

Mr. Banik further submits that the learned Tribunal also committed error in law by applying the wrong multiplier of 17 instead and in place of the correct multiplier of 16 and further not assessing the future prospect of the deceased as 40% and also not assessing the general damages as Rs.70,000/- while passing the impugned award.

Mr. Parimal Kumar Pahari, learned Counsel for the respondent/Insurance Company has vehemently opposed the submission and contention of the learned Counsel for the appellants. He submits that the learned Tribunal has rightly passed the impugned award since the same is quite justified and reasonable.

In view of the law as it stands now, after the decision pronounced by the Hon'ble Apex Court in case of ***National Insurance Company Limited -Vs.- Pranay Sethi & Ors.,*** reported in **(2017) 16 SCC 680**, the claimants are entitled to 40% additional income as future prospect of the deceased. This Court is also inclined to accept the submissions made on behalf of the appellants on the above points. Accordingly, the impugned award is modified and recalculated as stated hereinafter.

Monthly Income	**Rs. 3,000/-**
Annual Income (3,000 X 12)	**Rs. 36,000/-**
40% additional income towards future prospect	**Rs. 14,400/-**
Loss of total annual income	**Rs. 50,400/-**
Less 1/3rd deduction	**Rs. 16,800/-**
Loss of annual dependency	**Rs. 33,600/-**
Use Multiplier (16) (33,600 X 16)	**Rs. 5,37,600/-**
Add: General Damages	**Rs. 70,000/-**
Total Compensation	**Rs. 6,07,600/-**

Mr. Banik acknowledges that his clients have already received a sum of Rs. 2,81,500/- together with interest that has been awarded by the learned Court below and paid by the Insurance Company. Therefore, the differential amount of Rs. 3,26,100/- together with 6% interest on and from the date of filing the claim petition till the payment, shall be paid to the claimants by the respondent Insurance Company in the same manner and proportion as decided by the Court below within 45 days from the date of receipt of the particulars of their bank account details to be supplied by their learned Counsel to the learned Counsel for the Insurance Company.

It is made clear that the payment shall be made directly through NEFT/RTGS to the bank accounts of the claimants/appellants.

With the aforesaid directions, the instant appeal being F.M.A. 405 of 2010 shall stand disposed of.

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

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.)