

Ct. **08.9**
No. **2021**
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F.M.A. 73 of 2017
(Via Video Conference)
ICICI Lombard General Insurance Co. Ltd.
Vs.
Smt. Lakshmi Ghosh & Ors.

Mr. Parimal Kumar Pahari ...For the Appellant Insurance Co.

Ms. Sima Ghosh ...For the Respondents/Claimants

The appeal is directed against the judgment and award dated January 30, 2014 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Suri, Birbhum, in M.A.C. Case No. 147 of 2014 on a claim under Section 166 of the Motor Vehicles Act, 1988.

Various points have been raised by the appellant Insurance Company in the instant appeal challenging the quantum of compensation.

It is submitted on behalf of the appellant Insurance Company that the learned Tribunal committed error in assessing the compensation amount. It was also wrong on the part of the learned Tribunal to assess 'future prospect' as 50% instead of 40% for the victim. Learned Tribunal also erred in awarding Rs.2,25,000/- on the basis of non-pecuniary damages.

In reply, Ms. Sima Ghosh, learned Counsel appearing on behalf of the respondents/claimants submits that the award passed by the learned Tribunal is absolutely just and there is no scope of interference and/or modification of the award.

Considering the judgments delivered by the Hon'ble Apex Court in the cases of *Smt. Sarala*

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 precedence of this Court on the point of monthly income, I find substance in the arguments of the appellant Insurance Company. Appellant Insurance Company is justified in praying for 40% additional amount towards future prospect instead of 50%, as the deceased was an employee/labourer of unorganized sector. Non-pecuniary damages should be Rs.70,000/-.

Accordingly, 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. 3,000/-
Add : Future Prospect 40%	<u>Rs. 1,200/-</u>
Total monthly income	Rs. 4,200/-
Annual Income (27,533 X 12)	Rs. 50,400/-
After 1/4th deduction for personal Expenses	Rs. 37,800/-
Multiplier (17) (37,800 X 17)	Rs.6,42,600/-
Collective General damages	<u>Rs. 70,000/-</u>
Total Compensation	Rs.7,12,600/-

Mr. further submits that the entire awarded sum including the statutory deposit amounting to Rs.10,01,180/- has been deposited with the learned Registrar General of this Court. He submits that from the said amount, Rs.7,12,600/- with 6% interest from the date of filing, may be disbursed to the claimants in accordance with law as per the above calculation.

In the light of the above submissions, the claimants/respondents shall furnish particulars of their respective bank accounts with the Registrar General of this

Court as expeditiously as possible within a fortnight from date. Upon deposit of such details, the Registrar General is directed to pay the deposited amount of Rs.7,12,600/- along with 6 % interest thereon to be calculated on and from the date of filing of the claim petition, to the claimants/respondents in accordance with law in the same manner and proportion as decided by the Court below.

The Registrar General shall check the veracity of the bank accounts and the identity of the claimants before disbursing the amounts.

Such payment must reach the claimants within four weeks from the date of receipt of the bank details from the claimants/respondents.

The Insurance Company is at liberty to withdraw the balance sum along with accrued interest from the learned Registrar General of this Court.

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.*)