04.08.2021
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(Via Video Conference)

F.M.A. 1653 of 2019

Smt. Paramita Bhowmik & anr.
Vs.
United India Insurance Co. Lrd. & anr.

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

Mr. Rajesh Singh ... for the respondent/Insurance Co.

The appeal is directed against the judgment and order dated 10th day of January, 2018, passed by the Motor Accident Claims Tribunal cum District & Sessions Judge, Jalpaiguri in M.A.C. Case No.157 of 2016 for the death of 46 years old 'Abhra Sarathi Bhowmik' in a road accident dated March 18, 2016.

In the instant appeal, claimants have challenged the quantum of compensation on two points. It is submitted on behalf of the appellants that the claimants were not granted any amount under 'future prospect'. Further, claimants plead that they were erroneously given only Rs.2,000/- 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, learned Advocate representing the Insurance Company argues that 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. Claimants are justified in praying for 25% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective heads of general damages. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	Rs.6,000/-
Annual Income	Rs.72,000/-
Less 1/3rd for personal expenses (Rs.24,000/-)	Rs.48,000/-
Add 25% future prospect (Rs.12,000/-)	Rs.60,000/-
Multiplier '13'	Rs.7,80,000/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.8,50,000/-
LESS – awarded by Tribunal and paid by insurer	Rs.6,26,000/-
BALANCE (enhancement)	Rs.2,24,000/-

The claimants acknowledge receipt of the awarded amount of Rs.6,26,000/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.2,24,000/- would become payable to the appellants 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. If it is found that claimants did not receive any interest on the already awarded and paid amount of Rs.6,26,000/-, insurer shall pay interest on the said amount at the same rate of 6% as directed above, from the date of filing of claim application till the date of payment. Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company. The payment shall be made in the proportion decided by the Court below.

Learned Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned 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.

In view of the 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.

There will be no order as to costs.

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.)