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(Via Video Conference)

F.M.A. 2092 of 2014

with

I.A. No.CAN 1 OF 2014
(Old No. 5245 OF 2014)

with

I.A. No.CAN 2 OF 2015
(Old No. 4837 OF 2015)

Kalpana Gayen Das & Anr.
Vs.
Oriental Insurance Co. Ltd.

Mr. Krishanu Banik
...For the Appellants/
Claimants.
Ms. Gopa Das Mukherjee
...For the Respondent/
Insurance Co. Ltd.

The instant appeal is directed against the judgment and award dated July 21, 2005 passed by the learned Judge, Motor Accident Claims Tribunal, Contai, Purba medinipur in M.A.C. Case No. 27 of 2002.

The facts of the case are not in dispute.

Mr. Krishanu Banik, learned advocate for the appellants/claimants submits that the appellant no. 2, father of the deceased son, died intestate on May 11, 2018. Since the appellant no.2 is class-II heir as per the Hindu Succession Act and the appellant no. 1 is already on record as his legal heir, no application for substitution is required to be filed. By consent of the parties and on oral submission and information, the death of the appellant no. 2 be recorded in the memorandum of this appeal.

Mr. Banik submits that the tribunal committed an error in law while assessing monthly income of the deceased as Rs.1,800/- per month instead of Rs.3000/- per month. He further submits that the tribunal also committed an error in law by applying the multiplier 17 instead of multiplier 18.

Mr. Banik also submits that tribunal committed errors by not assessing the future prospect of the deceased as 40% and not assessing the general damages as Rs.30,000/- while passing the impugned award.

Ms. Gopa Das Mukherjee, learned advocate for the respondent/Insurance Company has vehemently opposed the submission of the learned advocate for the appellant. She submits that that the tribunal has rightly passed the impugned award since the same is quite justified and reasonable.

I have heard advocates for the parties and I find substance in the arguments of the appellants/claimants.

Considering the judgements of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680*** the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	Rs.3,000/-
Annual Income	Rs.36,000/
40% additional income towards future prospect	Rs.14,400/-
Loss of total annual income	Rs.50,400/-
Less 1/2nd deduction	Rs.25,200/-
Loss of annual dependency After deduction	Rs.25,200
Multiplier 18	Rs.4,53,600/-
General damages	Rs.30,000/-
Total	Rs.4,83,600/-

Mr. Banik acknowledges receipt of the awarded sum of Rs.1,41,700/- with interest assessed @ 6% per annum by the appellant/claimant. The differential amount of Rs.3,41,900/- with interest assessed @6% per annum would become payable to the appellant/claimant by the respondent/Insurance Company on and from the date of filing of the claim application till the date of payment within 45 days from the date of receipt of particulars of the bank account's details of the appellant/claimant by the advocate for the respondent/Insurance Company.

It is made clear that the payments shall be made by NEFT/RTGS.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of this appeal, connected applications, if any, are also disposed of. The department concerned 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.)