14.07.2021
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F.M.A. 505 of 2018

(Via Video Conference)

Smt. Jharna Bagdi & anr.
Vs.
Divisional Manager, National Insurance Co. Ltd. & anr.

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

Mr. Sanjay Paul
...For the Respondent no.1/Insurance Co.

The appeal is directed against the judgment and/or award dated August 29, 2016 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge (Redesignated) Court, Bankura in M.A.C Case No. 04 of 2016/77 of 2015 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one Ramu Bagdi in a road accident occurred on 07.03.2015.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Learned Advocate for the appellants/claimants submits that the learned Tribunal committed error in law while not assessing the monthly income of the deceased Rs.4,500/- instead of Rs.3,000/- on the basis of uncontroverted oral evidence as adduced by the mother of the deceased.

Learned Advocate for the appellants/claimants further submits that the learned Tribunal committed error in law while not granting 40% additional income towards future prospect since the deceased was 19 years old self employed person.

In reply, Mr. Sanjay Paul, learned Advocate for the respondent No.1/Insurance Company submits that the award passed by the learned Tribunal is absolutely just and there is no scope of interference and/or modification of award. Mr. Paul further submits that the learned Tribunal committed error in law while granting Rs.59,500/- towards general damages instead of Rs.30,000/- since the deceased was bachelor.

Considering the judgments 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 2015, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4,000/- per month does not appear to be exorbitant. Appellants are also justified in praying for 40% additional income towards future prospect since the deceased was 19 years old self employed person. However, the general damages shall be Rs.30,000/- instead of Rs.59,500/-.

Accordingly, the impugned award is modified and recalculated in the following manner:

Particulars	Amount (Rs.)
Monthly Income	4,000/
Annual Income (x 12)	48,000/
40% additional income towards future prospect	19,200/
Annual income	67,200/
Less 50% deduction	33,600/
Loss of annual dependency	33,600/
Multiplier (18)	6,04,800
General damages	30,000/
Total	6,37,800/

Mr. Krishanu Banik, learned Advocate appearing on behalf of the appellants/claimants acknowledges that his clients have already received the awarded amount of Rs.3,83,500/-. Accordingly, the balance enhanced sum of Rs.2,54,300/- 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 till payment within a period of 45 days from the date of receipt of the bank account particulars of the appellants. 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.

It is made clear that the payments shall be made by NEFT/ RTGS in the proportion as ordered by the Court below.

With the aforesaid directions the instant appeal bearing F.M.A. No. 505 of 2018 is disposed of accordingly.

In view of disposal of the instant appeal, the connected application, if any, is also disposed of.

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.)