S/L 17
13.7.2021
Court No.26
SD

FMA 231 of 2021
With
CAN 1 of 2020
(Old CAN 470 of 2020)
(Application is not in the file)
(Via Video Conference)

Mamoni Mallik & Anr.
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy
... for the Appellants/Claimants.
Mr. Rajesh Singh
... for the Respondents/Insurance Co.

The appeal is directed against the judgment and award dated November, 25, 2019 passed by the learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court-II, Tamluk, in MAC Case No.97 of 2015/610 of 2015, on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 'Buddhadeb Mallik' in a road accident dated August 11, 2015.

Two points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the monthly income of Rs.4,000/- of the victim, considered by the learned Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

The Insurance Company is represented.

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 precedence of

this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2015, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. Appellants are justified in praying for 25% addition on account of 'future prospect' on the income of the 46 years old deceased. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars		Amount (Rs.)
Monthly Income	:	5,000/-
Yearly Income	:	60,000/-
Add 25% Future Prospects (Rs.15,000/-):		75,000/-
Deduction 1/3rd (Rs.25,000/-)	:	50,000/-
Multiplier 13 (Age 46)	:	6,50,000/-
Add General Damages	:	70,000/-
Total compensation	:	7,20,000/-
Tribunal awarded and paid by insurer	:	4,86,000/-
Total balance Payable	:	2,34,000/-

The claimants acknowledge receipt of the awarded amount of Rs.4,86,000/- along with interest. Accordingly, the balance enhanced sum of Rs.2,34,000/- 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. 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.

With the aforesaid directions, the instant appeal is disposed of.

There shall be no order as to costs.

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

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.)